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*The Story of*  
THOMAS E. DEWEY  
*Attorney for the People*







**THE OXFORD  
COMPANION TO  
CLASSICAL  
LITERATURE**

*The Story of*  
THOMAS E  
DEWEY  
*Attorney for the People*

By RUPERT HUGHES

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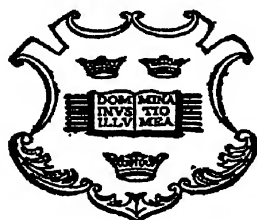
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# THE OXFORD COMPANION TO CLASSICAL LITERATURE

Compiled and edited  
by  
SIR PAUL HARVEY



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## Chapter I • FROM MICHIGAN TO NEW YORK

FAR BACK in the fifteen hundreds the Deweys were Huguenots who left France to escape from tyranny. The name they carried to England they spelled 'Douai.'

In those days of free-and-easy spelling, when even the best-educated men wrote their own names in half a dozen ways, Douai soon became 'Duee.' When Thomas of that ilk found England too oppressive, and crossed the sea to Dorchester, Massachusetts, in 1634, he changed the spelling to 'Dewey'—a spelling also adopted in England and now standard there for centuries.

There are striking phrases in the Freeman's Oath, which that first Thomas Dewey took in Dorchester, Massachusetts, May 14, 1634:

I, Thomas Dewey, being by God's Providence an inhabitant and freeman within the jurisdiction of this Commonwealth, — do here swear by the great and dreadful name of the ever living God, that I will be true and faithful to the same, and will accordingly yield assistance and support thereunto, with my person and estate, as in equity I am bound; and will also truly endeavor to maintain and preserve all the liberties and privileges thereof . . . that I will not plot or practice any evil against it, or consent to any that shall so do, but will truly discover and reveal the same to lawful authority . . . I will give my vote and suffrage as I shall judge in mine own conscience may best conduce and tend to the public weal of the body without respect to persons or favor of any man. . . .

That first of the American Deweys was evidently as impatient of oppression from above or below as his lineal

descendant, for he found too little freedom among the Puritans, and moved on to New Hampshire, where he raised varied crops, including many stalwart sons, one of whom, Josiah, was a sergeant in King Philip's War. Among his descendants was that George Dewey who fought several hot naval battles as executive officer under Farragut in the War between the States long before he led the fleet to the victory of Manila Bay in 1898. A third cousin of George Dewey the Admiral was George Martin Dewey, whose son's son was Thomas E. Dewey.

Although the first Dewey in America was also a Thomas Dewey, the living Thomas was named after his mother's family. She was Anne Thomas, born in Owosso, Michigan, in July, 1877. Her people had come to the United States only a generation before. Her father was Alfred Thomas, a Canadian of English descent, who married an Irish girl, Augusta Corrigan, born in the County Cork, probably in the village of Clonakilty. She was the daughter of a professor in the University of Dublin, who later moved to Canada.

Thomas E. Dewey says of his grandfather Alfred Thomas: 'He was one of the finest, gentlest men I ever knew. He had the most beautiful garden in Owosso, and was a pillar of the Episcopal Church. He ran a general store in Owosso, and thought advertising undignified — never allowed his name to appear in an advertisement. He had a two-story store on Main Street and a seven-room apartment over it. I was born there.'

Dewey's paternal grandfather, George Martin Dewey, studied three years at Harvard, but, instead of graduating, spent his senior year in South America with a Harvard scientific expedition. Returning, he settled in Hastings, Michigan, where he established a newspaper, the *Banner*. Later he founded another at Niles and ran them both for many years as well as a fraternal organ, the *Michigan Odd Fellow*.

He was a delegate to that famous convention in Jackson, Michigan, where, in 1854, the new Republican Party was born 'under the oaks' — the old 'Republican' Party founded by Jefferson having changed its name to 'Demo-



cratic.' George Martin Dewey was an ardent worker in the political field. Every four years he stumped the state and many near-by states for his party, returning home only in time to vote. He toured the whole country for McKinley in 1896. Various Republican Presidents offered him embassies to Spain or Turkey, but he did not feel that he could afford to accept.

A few years before his death he sold his two newspapers and moved to Owosso, where he established the *Times*.

He had six children, of whom one daughter died young. The others, in succession, were named Henry Bingham, Edmund Otis, George Martin Junior, Emma Grace, and Mary Hannah. The eldest son, Henry Bingham Dewey, graduated at the University of Michigan, settled in Owosso as superintendent of schools, then moved to the State of Washington, where he became State Commissioner of Education. In 1912 he was a Republican candidate for Congressman at large, and though defeated ran fifty thousand ahead of his ticket. He joined the Boston publishing house of Houghton Mifflin Company as its representative on the Pacific coast. His work proved so valuable that he was soon invited to associate himself with the directing organization of its entire Educational Department at Boston. There he continued until his death in 1931.

Edmund Otis Dewey, who gave Thomas Dewey his middle name, was a Republican county leader for many years and postmaster at Owosso from before his namesake's birth till 1915. He died in 1918. His daughter was the 'Cousin Harriet' who was like a sister to Thomas Dewey.

A remarkable woman is Dewey's aunt, Emma Grace Dewey, who graduated at Wellesley and taught in college for many years. Suddenly at forty-five she decided to qualify as a certified public accountant and practiced that profession. Soon after she became an examiner of corporate income-tax returns. When she was forced to 'retire' at seventy-two, she took up private practice in Los Angeles, where she still lives.

Plainly a woman of strong will, she informed her nephew when he was six that he was to be a lawyer. Her counsel

haunted him throughout his strong temptation to devote his life to a lyric rather than a legal career.

Her sister, Mary Hannah Dewey, graduated at the University of Michigan and married another graduate, Doctor Howard Sprague Reed. He taught at the University of Virginia for seven years, and has since been connected with the University of California at Berkeley. His achievements in biology and plant physiology have given Doctor Reed world-wide eminence.

George Martin Dewey, Junior, Thomas Dewey's father, was born at Hastings, Michigan, in 1870. He was six feet tall and very handsome. He went to West Point and was close to the head of his class in his junior year, but, while taking exercise in the gymnasium, suffered injuries that did not disable him, yet reduced his efficiency below the rigid demands of the Regular Army. So, after a year as a reporter on the *Ledger* in Tacoma, Washington, he settled in Owosso and worked on his father's paper, the *Times*.

To him, the prettiest girl in Owosso was Anne Thomas, of ancestry half English, half Irish; and altogether American. She was overwhelmed as young girls are — she was just out of high school — when she caught the eye of a man so much older than the boys of her own set; so handsome, so tall, and just out of West Point.

When he proposed, she did not keep him waiting. After the honeymoon, they moved to Lansing, the capital of the state, where George Dewey had a post in the Auditor General's office. He remained there until 1905, then returned to Owosso to edit the *Times* and manage its printing shop. After his greatly loved brother Edmund died, he became postmaster and held the office till his own death in 1927.

Of his father and mother, Thomas Dewey says:

'I never heard them quarrel once in all my life. They never attempted to rule me and I'm afraid they spoiled me. They sent me to college and let me study voice and law. They gave me a summer in Europe. My father never spanked me in his life. My mother did that for me. I try to be stern with my own children, but I spoil them just as I was spoiled.

'My father's income was about eighteen hundred dollars a year. We lived on the best street in town, but we never had much money. My father had an extraordinary intellect and was a fine editor. My mother was, and is, a good business woman. Both had great charm, and my father would probably have been a famous writer if he had taken that direction.'

Dewey's mother is still young in heart and years. She plays a good game of golf, and is gay and laughter-loving. When she goes shopping in New York and a saleswoman looks puzzled at being told to send a parcel to Owosso, Michigan, it amuses her to explain rapidly: 'Why, don't you know Owosso? It's in Shiawassee County on the Shiawassee River.'

Owosso lies in the Eastern Midwest, about halfway between Detroit and Chicago, halfway between the manufacturing beehive of Flint and the tranquil state capital at Lansing. The landscape is typical of the Midwestern scene; a gently undulating plain, not yet the rolling prairie of farther west, but well-rippled and very fertile.

There were only eight thousand people in Owosso when Thomas Dewey was born there; now it boasts a population of fifteen thousand. There are so many trees in line that its broad streets are tunnels of shade in summer. All the houses have broad porches fore and aft, and yards so full of trees and flowers that the town needs no public park. Every house has a little park of its own. There is a municipal golf links and a country club with well-groomed greens. The very soul of the town is the Shiawassee brook that calls itself a river. It runs, wanders, and winds in and out and needs many bridges.

On the very edge of the river Thomas Dewey was born at seven o'clock in the evening of March 24, 1902. He would have been born at Lansing, where his father was assistant to the Auditor General, but Alfred Thomas insisted that his daughter should lie in under the watchful care of her parents. So she returned to Owosso.

Being born over a general store might seem a prosaic beginning. But the long, low, red-brick building rose sheer

from the side of the stream; the back windows looked out on the open country, green fields, dark groves, bright grass. It was like living in one's own demesne.

Anne Dewey's brother-in-law, Edmund, was almost mystically devoted to her husband. The two brothers were more like twins. Edmund had always wanted a son, and had a daughter instead. He was doubly happy now for his brother's sake. And so her only child was christened Thomas Edmund: Thomas after his mother's maiden name; Edmund after his father's next dearest kin. The baby was taken to the altar of his parents' Episcopal church, which stands like a bit of old England in its wide lawn beneath trees and shrubs. The child soon developed a voice that gave him an early place in the surpliced choir. In due course his soprano descended to an alto, and finally, after an embarrassingly slippery period, settled into a ringing baritone of such power and richness that he seemed to be destined, or doomed, to a career in concert and opera.

He was inclined to moderation in stature, and he once said in jest to his mother: 'There are two things I'll never forgive you for denying me: one is my father's height and the other is his nose.'

But she gave him his father's eyes. They are almost a mark of the Dewey clan — a brown so deep and intense as to dominate the face and dominate the beholder. They are not piercing, yet they exert a kind of pressure, and a penetration very useful to the prosecutor he became. His own children resemble him remarkably, and a photograph of him at the age of five might serve as a perfect portrait of his son Thomas.

Tom Dewey played hard, laughed hard, and worked hard. He wanted to be a newsboy, but his mother demurred until he was eleven, then compromised by letting him sell the Curtis weeklies and monthlies. Two years later, at thirteen, he had nine or ten boys working as his agents. Next he added the local distribution of the *Detroit Daily News*. Every afternoon he met the four-fifteen train, divided a bundle among his employees and sent them scurrying through the town hurling papers at front doorsteps.

When he was sixteen, he worked many months in a drug-store — but it had no soda fountain.

In 1918, this son of a West Pointer was too young to be accepted for the army. The most useful task he could find was replacing one of the young farmers who had been called away to dig in the soil of France. He could help at least with the food supply. He read an advertisement for workers and answered it in person. He wrote home nothing more than brief postcards. The first of his reports of rural life on the Putnam farm outside Ovid, Michigan, in the summer of 1918, shows that he got his first wounds where they did not show, but were none the less acute. The boy of sixteen wrote:

Dear Folks: Its 8:00 P.M. and am thru chores. He has 3 cows, 4 horses and 18 pigs — large and small. Rode a roller this P.M. and the woman who went to the M.D. for a corn cure after riding 500 miles in a Henry had nothing on me now. Tomorrow I do it all day. We get up at 5:00 and get thru at about 7:00 or 7:30 P.M. Can have most of my Sundays off. Lots of eats and pretty good but not like home however. Tried to milk a bossy tonight and got milk. (That's all I can say.) Can hitch and unhitch a team of horses. Putnam drilled beans in the ground. I rolled and have to roll it all over again Fri. and some more too. Bed has plenty blankets. You win on the napkins but they have tablecloth. His wife is quite nice and kind all right. Will write again next week. Great stuff — this farming. T. E. D.

After the first day and night on the farm he wrote again:

Dear Folks: Time same — Fri. P.M. Last night I found out how hard one bed could be. My mattress is straw and immediately on sitting on the bed we find how hard the slats are. The springs might just as well be in Hong Kong. Slept well, however, as long as they sleep out here. Rode the roller all day today, that is, all the time I was not in the air directly above it. Farm machinery has sometimes a seat which is iron. I found out today that iron is the hardest metal on earth. I am sitting down very carefully this P.M. I also renewed my previous acquaintance with old Sol. My hands are a glorious red and the wind and heat decorated my mug some, too. I didn't

know so many big rocks could collect on one plot of ground. I did 16 acres today. Out here I am, Mr. Dewey, Ovid R F D No. 1.

The third shows that life is still strenuous.

Dear Folks: — The weather is something fierce. Monday I cultivated all day. Yesterday I hoed thistles out of beans, after bringing the sheep up from the pasture (a mile away) and letting them drink and putting them in another one and fixing fences around it. Lost watch somewhere in operations in about 5 min. Have looked all over and couldn't find it. Wasn't much good anyhow. This A.M. I hoed rest of thistles out and then potatoes. This P.M. we hauled barley from field. It's awful, the whiskers. Thurs and Fri wheat not so bad. Am going to bathe and have a change in A.M. of everything but shoes. T. E. D.

The last of the only available examples of his early literary work indicates that he had not yet learned to keep out from under the big hooves of the farm horses. Also that he is coming home for the week-end:

Dear Folks: — Went last night to hear an Australian Artillery officer who is just out of a British hospital. He has been wounded nine times and his right arm is gone. He is on his way home. He was very interesting. Their Chautauqua is quite good. I have been cultivating all week so far and expect to keep it up. Beans are fine. I got stepped on again Monday but it didn't hurt much. Today I hit a large rock too suddenly and the laws of gravity and two or three other things sent me off, scraping my leg some but it doesn't hurt now hardly at all. Very thrilling, this farm work. See you with the eggs Sat. P.M. T. E. D.

In the boyish informality of his postcards, one trait stands out. He writes of his hard bed, but adds, 'slept well, however.' He notes, 'Lost watch somewhere,' but adds, 'Wasn't much good anyhow.' He confesses, 'Got stepped on again, but it didn't hurt much.' 'Scraping my leg some, but it doesn't hurt now hardly at all.' 'Tried to milk a bossy and got milk. That's all I can say.'

The boy minimized both his misfortunes and his achievements, not expecting too much, not being surprised at bruises, not dramatizing his woes.

When he returned from the farm to his last year in high school, he edited the school year-book *Spic*. He played on the high-school football team, but was not heavy enough to make the team at the University of Michigan later, though he loved the game.

While in high school he took part in the junior and senior plays, and the minstrel shows of 1918 and '19. He was on the debating team. He rose to be a lieutenant in the cadet corps. In the graduation year-book this legend was printed under his photograph:

First in the Council Hall to steer the state  
And ever foremost in a tongue debate.

The summer after he graduated from high school in 1919, he went to California for a visit with Doctor and Mrs. Reed at Riverside. He spent two weeks at La Jolla in deep-sea fishing, swimming, and tennis. Then he camped in the San Bernardino Mountains with his mother's sister, Mrs. Henry Warren, and their family. There was an old prizefighter in the mountains from whom he took boxing lessons.

By the time he was ready to enter the University of Michigan at Ann Arbor, he had saved up eight hundred dollars from his various labors and insisted on paying all his own expenses through the first year.

At the age of seventeen, in 1919, he entered the University, where, in addition to his courses of study, he worked on the *Michigan Daily* as a reporter, later as telegraph editor. As pastimes, he played chess and bridge; sang in the glee club and was a leading member in the musical fraternity, Pi Mu Alpha. He studied voice with William Wheeler, head of the music department. He was also a soloist in the Ann Arbor Methodist Church at \$7.50 a Sunday. When his father was appointed postmaster, he went home and edited the Owosso *Times* for a while. Back in college he kept well up in his classes, led the glee club and acted in college plays.

There was nothing whatever in all this activity to indicate the slightest interest in the law. But the seeds had been planted and, following his apparent motto, 'Try all things, hold fast that which is good,' he devoted his senior year to legal studies. At Ann Arbor the student is permitted to take up a professional course in his fourth year and gain credit for it in one of the other departments of the university.

Dewey continued to study voice with William Wheeler, played the star rôle in the annual college opera, and won first prize in the Michigan State Singing Contest, which carried him to Asheville, North Carolina, as representative of his state in a national singing contest. He won third prize there and returned to Ann Arbor barely in time to appear at the Commencement exercises as the soloist, and to receive his diploma as Bachelor of Arts.

With the approval of his parents, he went off to Chicago, where he won a scholarship, and free tuition thereby, in the summer classes conducted at the Chicago Musical College by the New York vocal teacher, Percy Rector Stephens. At the same time his mother's cousin, Leonard Reid, gave him a job reading law and doing legal chores in the office of Litsinger, Healy and Reid.

As it happened, the secretary and studio manager for Stephens was a beautiful and gifted young mezzo-soprano, Frances Eileen Hutt, who had come West to continue her studies and would go back to New York in the fall. This had its influence on Dewey's history as well as his heart.

Stephens advised him to go on to New York with him and continue his singing lessons. He had dallied with the thought of studying law at Harvard, but that university did not accept Michigan credits. The law department of Columbia University did. He figured it out: he would combine his vocal lessons with legal studies in New York, and at the same time keep an eye on Miss Frances Eileen Hutt.

Whether history was trying to imitate fiction or not, it is a fact that when Thomas Dewey fell in love with Frances Eileen Hutt, it meant that a son of a northernmost state, and grandson of one of the founders of the Republican Party,



had chosen for his mate a daughter of the Confederacy born in a southernmost state.

The families of both are of old American stock. An ancestor of Frances, Daniel Hutt, was a merchant in Baltimore in the seventeenth century. He was owner and captain of a ship called the *Mayflower*, but not the famous vessel that brought over the Pilgrims.

#### A DAUGHTER OF THE SOUTH

On February 7, 1903, Frances Hutt first appeared in the Texas town of Sherman. When she was eleven, her parents moved to Sapulpa, Oklahoma, where they still live. Her father is Orla Thomas Hutt, a railroad man. She has one brother, Doctor Harold Davis Hutt, now living in Holly, Michigan.

Frances Hutt has all the traditional graciousness and charm of a Southern woman. Behind her exquisite mask her soul glows with quiet amusement and deep feeling. Her heart is a hearth of warm devotion to her husband and her two sons. Yet she exacts all the joy there is in life, takes it with bravery, spices it with a quick wit, and has, as Dewey says, 'plenty of horse sense.'

She went to the public school in Sherman, and in Sapulpa. She led her class and was valedictorian of her junior high-school class when she was fifteen; and valedictorian again of her senior high-school class at eighteen. She was an ardent player of tennis and loved to swim, studied the piano and toiled at the art of the singer. At seventeen she won a prize in the Voice Division of the State Fine Arts Contests at Norman, Oklahoma. About the same time Dewey was winning a state contest in the North. Frances Hutt was 'the shining member' of the Tsianini Music Club in high school and took the leading rôle in an operetta, 'The Gypsy Rover.' She acted as practice teacher for her piano teacher and later had piano pupils of her own, and sang at home festivals, conventions, and benefits. On Sundays she played the pipe organ in church and directed the choir. At fifteen she began her singing lessons with Mrs. Bess McLennan Hughes, a pupil

of Percy Rector Stephens, of New York. Mrs. Hughes had such confidence in the future of her young pupil that she proposed a concert. With the proceeds Frances went to New York to continue her musical education.

Percy Rector Stephens heard her sing and was impressed. To help her pay her way, he engaged her as secretary and manager of his studio. She also studied the theory of music and the languages a singer must know. She found choir positions in various churches in and about the city, and when Stephens took up the summer session at the Chicago Musical College, went along as his secretary and pupil.

And there she met Thomas Dewey. But both were so earnest about their musical futures that it took them a year to fall in love. She says, when asked: 'I can't remember when I began to like him. I think it was long before he began to like me.'

As pupils of Stephens, they both returned to New York, where Dewey was combining classes at the Columbia Law School with classes at the studio. They had little time for getting acquainted and have probably had as little of each other's company as any imaginable pair of equal devotion.

Even on Sundays she had to get up 'at the crack of dawn' and go over to Plainfield, New Jersey, for choir rehearsal before the morning service, while Dewey had his own choir in town to attend.

New York is often pictured as one vast carnival of idle revelry, but more characteristic of its populace was the life of these two young strugglers. Ahead of Dewey stretched two years of study before he could even begin to starve for practice as a lawyer. Miss Hutt had to live and work her way up to the opportunities and the responsibilities of her warm and brilliant mezzo-soprano.

She was just twenty-one when she secured a straight singing rôle in a road company of George White's annual musical institution called the 'Scandals.' She knew the vital importance of experience, of acquiring ease before the public, and of being seen and heard by other managers. She was featured under her stage name, 'Eileen Hoyt.'

When the company played Tulsa, Oklahoma, for two

nights, the Sapulpans turned out en masse and traveled the ten miles to see and hear her. At the end of a six months' season she returned to New York. She sang in two of John Murray Anderson's productions, after which she supported herself again with church choir and concert engagements, studying voice further with Enrico Rosati.

There is a legend that when at last the cautious Dewey made a formal proposal for her hand, he put it in writing and the formidable document offended her as revealing too much of the lawyer and too little of the lyric lover. Both principals deny the story flatly, since, as Dewey says, 'We lived in the same town for four years before we got married, and as a matter of fact, most of that time was spent in waiting till my income was sufficient to warrant matrimony.'

Whenever and wherever he did propose, she doubtless accepted his earnest solemnity then, as since, with the same amused and adoring despair she smothers now behind her laughing eyes when he grows too grim. It is safe to say that she had no grandiose ideas of what constituted an income big enough and safe enough to support a wife, even a wife who could do so well on so little.

## Chapter II • UNCLE SAM'S LAWYER

WHEN Thomas Dewey first set foot on New York City soil — or rather, on its pavement — gangsterism was just burgeoning out into the lush tropical growth it reached under the influence of the Prohibition Amendment. Crime was organizing, becoming big business, and waging war on a large scale. A piratical navy laced the seas. Piratical fleets of trucks zoomed the highways. Machine-gun bullets sprayed the streets. Police were constantly being bought or shot.

The young man from Michigan must have regarded the situation with repugnance, but he never dreamed that he was 'born to set it right.' He practiced his solfeggios and studied his arias at the studio; attended the classes at the Law School and made notes of the lectures. On Sundays, when Miss Frances Hutt went over to the Plainfield Methodist Church in New Jersey to sing in her choir, he sang baritone solos in the New York Episcopal Church of Saint Matthew and Saint Timothy for fifteen dollars a week. He also edited the national quarterly of his fraternity Pi Mu Alpha, and served as its national historian, having been elected to that office at its convention in 1922.

His mother says that his inclination toward a vocal career was shaken by having to sing at an important concert when he had a painfully sore throat. He realized that his whole life would be at the mercy of two vocal cords. And the more he studied law, the more it drew him toward the great opportunities it offered, the more it woke in him an admiration for the art and science of it. He took a passionate interest in it and it filled him with a fiery tirelessness.

Almost unconsciously he began to neglect his singing voice, and though he had brought two futures to New York, he gradually discarded his musical ambitions and, after a year, gave up his vocal lessons.

His eagerness for knowledge of the law was shown in his organization with two or three friends of an extra moot court because they thought that those provided in the regular curriculum were not enough. After graduation his desire to know more of economics led him to attend a night seminar in that subject, given at the Columbia University Club by Columbia professors.

Soon after entering the Law School he was invited to join the leading American legal fraternity Phi Delta Phi.

He was graduated at Columbia in 1925 with the degree of Bachelor of Laws. Before hunting for a minor place with a law firm, he decided to have a glance at Europe. He had earned and saved a little money, but more of his funds came from his parents.

He and a friend from Michigan, A. Ward Jenks, took ship and landed in England at Plymouth, where they bought an aged Ford. They chanced to meet a young Cambridge University man who was working in the Plymouth navy yard. He decided to join them and the three toured rural England. Reaching London, Dewey and Jenks sold the Ford, finished the city in short order, crossed the Channel, and bought bicycles.

It was on this trip that the famous Dewey mustache came into being. The two travelers agreed on a race to see who could raise a full growth first, and Dewey has worn his ever since — mainly because Miss Frances Hutt liked it when she first saw it.

Dewey and Jenks pedaled about France till their ebbing wealth warned them that the holiday was over. Their round-trip tickets restored them to New York, but their funds were at a vanishing point. They bought tickets to Detroit, then missed the train. Unable to collect a refund immediately, they spent their absolutely final pennies on new Pullman berths and fasted the rest of the way home.

After a few weeks in Owosso, Dewey returned to New York

September 1, 1925, and found a desk in the immense law offices of Larkin, Rathbone and Perry, where there were twelve partners and twenty-eight associates. And the least of these was Dewey, who, as he says, 'looked up law, answered calls in court, dug out documents, served papers, and worked like a printer's devil.' His salary was \$1800 a year.

After fourteen months of this apprenticeship he left and entered the office of MacNamara and Seymour. Here there were only three assistants and Dewey was one of them. The firm paid him \$2000 a year. He polished the legal doorknobs 'so faithfuller' that four months later his wage was advanced to \$2400.

#### HIS REPUBLICAN INHERITANCE

He was also devoting a part of his time to working for the Republican Party. When he was a ten-year-old boy in his father's printing plant, his father had often said to him: 'Tammany Hall represents all that is evil in government.' But nearly everybody was saying that, and the boy registered no vow to slay the dragon. Yet he always took a keen interest in party organization. His grandfather was one of the founders of the Republican Party; his uncle and his father were both leaders in Republican politics.

'As a child I breathed politics,' he says. 'My home was full of it. Congressman Fordney, co-author of the famous Fordney-McCumber Act, the great Governor of Michigan, Chase Osborn, and other leading Republicans of Michigan were always visiting my father's house. I came to call Governor Osborn, Uncle Chase, and I still keep up a constant correspondence with him.'

His mother tells how interested the boy was when such men dropped in to talk over affairs of state with George Martin Dewey, whose wisdom without self-seeking won their respect. They would be persuaded to stop for dinner in the little dining-room. They would linger in the sun-parlor, talking and talking till it grew so late that they were glad to be invited to spend the night. While they talked, Tom would sit

Medalie, on March 15, 1931, offered him the post of Chief Assistant United States Attorney. It was unprecedented. No one so young had ever held that post before. Dewey accepted, though his salary of \$7500 was less than he had been making in his private practice.

#### APPOINTED CHIEF ASSISTANT UNITED STATES ATTORNEY

At twenty-eight, Dewey was now the administrative head of the largest prosecuting office in the Federal Government, with sixty lawyers under him. For nearly three years he toiled in that service and acquired an amazing knowledge of every phase of the Federal Government. He came into office at the very climax of the vast tidal wave of lawlessness and organized crime that overswept the nation.

The Attorney General is Uncle Sam's lawyer, and his work is divided into ninety-four judicial districts, over each of which a United States Attorney presides with his own staff of Assistant United States Attorneys. Of all the ninety-four districts, that of Southern New York is by far the most important. Its territory includes eleven counties and extends from the tip of New York almost to Albany. Its population is six million, larger than all New England; as large as the population of Iowa, Kansas, Nebraska, and Oklahoma. The core of it is the Borough of Manhattan with its seaport, rivers, railroads, banks, Wall Street, and other exchanges, its supreme national and international commerce.

Strange peoples pour into New York from abroad, and the ambitious flock to it from the rest of the nation. Law-breakers, swindlers, stock manipulators, promoters of wash sales, and criminals of every kind work on a larger scale in New York than elsewhere; and their deeds and misdeeds are likely to affect the people of the whole country. The United States Attorney for the Southern District of New York is therefore most decidedly a United States Attorney. In many ways the New York office does a bigger, more complex business than the Attorney General's office in Washington.

Though Medalie was the controlling soul of the office, the infinite details of its administration fell on his adjutant

Dewey. The executive work, the supervision and conduct of the whole business, the tasks of the clerks, the keeping of the files, the bookkeeping, the salaries and wages of the personnel, were a burden in themselves. But Dewey had also to discuss with his chief and supervise the legal aspects of the great mass of cases that poured into the office.

He had to know — or at least he thought he did, and so came to know — the personnel and the problems of every department of the national administration. Six years later he described that phase of his work in a speech he made at Baltimore to a convention of the International Association of Chiefs of Police:

‘I was working side by side for months at a time with the trained, skillfully directed men of the many federal investigating services, including the Treasury Intelligence Unit, the Postal Inspection Service, the Bureau of Investigation of the Department of Justice, the Secret Service, the customs agents, the Narcotics Bureau, and others. I also worked with a staff of New York police detectives.’

That was only the criminal side of his task. On the civil side he was in direct, close, and constant contact with the departments of State, Treasury, War, Navy, Justice, Post Office, Interior, Agriculture, Commerce, Labor, and various independent bureaus — not to mention private citizens, corporations, municipal and state authorities. Each department of the Government has its sub-bureaus throughout the nation, and since New York City is the financial and commercial capital of the United States, the work was nationwide, world-wide in its scope.

He gathered about him a cohort of young lawyers who either have gone on fighting at his side or taken their training into other fields. They tell how the sixty lawyers attached to the office were incessantly coming to Dewey with every imaginable problem, and always finding help in its solution.

On Dewey’s wisdom and energy depended the safety and welfare of countless citizens. One instance is the case of the Manhattan Electrical Supply Company. It was listed on the New York Stock Exchange, yet its stock was manipulated by a crooked pool which worked through forty different



brokers. They boosted the stock from \$20 a share to \$56, then 'pulled the plug' and let the stock drop to \$6. Thousands of investors all over the country lost at least \$10,000,-000 by this use of wash sales and other tricks.

Since so many people take a flyer now and then in speculation, this case may be given a little attention to show what evils prevailed and what this victory did to eradicate them. For many years prior to 1933, thousands and thousands of investors and stockholders throughout the country were defrauded by crooked stock salesmen and market manipulators, with resultant losses of hundreds of millions of dollars. All types of fraudulent schemes were utilized by high-pressure criminals who victimized rich and poor alike by drawing false pictures of the operation and future of the companies they were promoting. In addition to downright misrepresentations, some stock-market manipulators conducted crooked operations on the various exchanges of the country. In order to induce people to purchase a stock and to attain fictitious prices, the manipulators, among other things, created great activity in the stock, 'matched' orders, 'washed' sales, and stepped into the market to maintain the price whenever 'outside' sales threatened to depress the stock price.

#### THE MANHATTAN ELECTRICAL SUPPLY CASE

The Manhattan Electrical Supply case, known as *United States v. Brown*, was the first of its kind in which a prosecution established a crooked pool operation on the New York Stock Exchange. Assistant United States Attorney Jacob J. Rosenblum, under Dewey's direction, sent questionnaires to a thousand Stock Exchange houses. The returns showed that some thirty-odd accounts were maintained by the operators of the 'pool.' The trial took two months and the defendants were convicted, sentenced to five years in the penitentiary, and fined \$18,000 each. Many devices outlawed shortly thereafter by the Securities Exchange Act were brought to light during this investigation, and the case did more than any other to convince the public and the law-enforcing agencies of the need

for rules and regulations to control the operation of stock exchanges.

The case is given its true importance in an article called 'Stock Market Manipulation' by A. A. Berle, Jr., published in the *Columbia Law Review* for March, 1938. He wrote:

The past seven years have seen a surprising development in the law of manipulation of security prices. In part this is due to the definite provisions of the Securities Exchange Act of 1934. . . . It is erroneous, however, to assume that the statute constitutes the primary development in the field.

Berle points out that recent development of common-law theories would probably survive even a repeal of the Securities Exchange Commission Act. Previously

the major difficulty with the common-law doctrine was that it placed the burden of bringing action on the plaintiff who had been defrauded. . . . The means of obtaining evidence was difficult. Particularly, it was troublesome where the false statement consisted in a series of 'wash sales,' and still more difficult with 'matched orders' . . . where two or more confederates put in orders to buy and sell which are designed to meet orders to sell or buy placed by the confederate. . . . Only a wholesale study of many brokerage accounts would disclose the ultimate scheme. . . .

Crystallization occurred in the now famous case of *United States v. Brown*. . . . Preparation of the case for trial and the handling of the evidence still furnish a model for similar cases in this field. . . . *United States v. Brown* cleared up a number of pending questions.

There were many such cases. One picturesque example of wholesale fraud had the baffling name of the National Diversified Corporation, which was promising to produce a sacred motion picture to be called 'The Life of the Blessed Virgin.' The promoters deluded cardinals and other prelates of high degree, and men of such prominence as Governor Alfred E. Smith, into lending their names to the enterprise. Stock was sold to numberless people, many of them very poor, until the company had collected five or ten million

dollars. It never made the picture, but thirteen of the swindlers had their own pictures taken; for they were all consigned to prison.

The very first case Dewey took part in caught the public attention and touched the purses of the humblest. He seized the books of an alleged dealer in what purported to be tickets of the Irish Sweepstakes. The man insisted that he was really working only in Canada, but he was forced to disgorge 2300 books, each containing ten tickets. Their total face value was \$69,000. That was the beginning of the incalculable moneys Dewey has saved the public from losing.

The income-tax laws had already been found to be effective weapons of last resort against evil forces hard to reach otherwise because of the corrupt alliance between criminals and politician-controlled police forces. The income-tax law was now employed by Medalie and his aide in attacking the Harlem 'policy king,' Henry Miro. Thus, already in May, 1931, Dewey was delving into the African jungles of the numbers game. Here he ran across the first trail of James J. Hines, who was then at the top of Tammany power and apparently immune to attack.

The case against Miro was presented by Medalie, but largely prepared by Dewey and his new special division working on gangster income-tax cases. Medalie tried the case with Dewey's help. Miro's dealings in the pennies of the Harlem black belt were almost incredible in their total. It was proved that Miro's unpaid income tax alone was over \$130,000. He had one bank account of more than \$50,000.

#### THE PLUTOCRATIC POLICEMAN

Next, Medalie tossed into Dewey's lap the case of a crooked policeman, James J. Quinlivan. Temporarily assigned to the vice squad, Officer Quinlivan had banked three hundred dollars the first day. According to Dewey's painful compilations, on the humble salary of a policeman Quinlivan had managed to pile up a yearly income of \$80,000. But his modest soul felt that it would be embarrassing to boast of such riches, so he neglected to pay any income tax.

In studying the case of the plutocratic policeman, Dewey disclosed one of Quinlivan's quaint and ingenious practices; with fine official indignation he would lead a raid on an establishment in which illicit liquor was sold. He would confiscate the stock; but, instead of wasting the precious fluid by pouring it down the drain, he would turn it over to a little night club of his own, which he had created for the very purpose; then he would sell the contraband over his own counter.

This combined constable and tavern-keeper was indicted on five counts. Desperate efforts were made to save him from the federal law, and for a moment it looked as if he had escaped. Dewey was accused of an egregious blunder. Headlines appeared, 'Costly U.S. Case May Fail. Quinlivan Indicted in the Wrong District.' But this accusation failed, the conviction was sustained on appeal, and Quinlivan was sent off to patrol a penitentiary cell for three years.

In June, 1931, Dewey was already on the trail of one of Prohibition's most eminent offspring, the notorious 'Dutch Schultz.' A bloody trail it proved to be, but for the present Dewey was concerned only in his belief that the Bronx Beer Baron, whose real name was Arthur Flegenheimer, owned bank accounts in which had been deposited \$856,000. If it could be proved that the accounts were his, he owed the United States the tax on it. The fact that he was paying a weekly wage of a thousand dollars to James J. Hines was not discovered till Dutch Schultz was long in the grave from which Dewey dragged him for a posthumous prosecution.

In this same June, while Dewey was wielding his new sword so ruthlessly, he revealed one of his most striking traits — the feeling that a public prosecutor of the guilty has also the duty of being a public defender of the innocent or unfortunate.

One day while in court he overheard the trial of a sixteen-year-old boy who had been seized as a peddler of narcotics because his elder brother had used him for a delivery boy. He was about to be sent to the penitentiary, but Dewey intervened, had his indictment changed, and turned him over to the Children's Court for protective care.

It was a life of wide vibrations Dewey led, swinging from the fate of a small boy caught in the dope-peddling trade to the dealings of a family of millionaires juggling hotels. But it made him an unabridged encyclopedia of information about our national life in its infinite variety.

His work had its international aspects, too. In August he could announce that the federal authorities had broken up the so-called 're-entry ring,' which had been smuggling aliens into the country by liberal bribery at the expense of the aliens. A newspaper stated that the ring 'had brought in at least 100,000 aliens illegally.' Ciphers are no luxury to Dewey. He likes to lop them off when he can; and he reduced that 100,000 illegal immigrants to a modest 1000 — which was more than enough at that.

It was in this same August, 1931, that Dewey encountered the eminent gangster 'Legs' Diamond, of whom 'Dixie' Davis says, 'he organized the first modern mob in New York.' As Acting United States Attorney, Dewey supervised the trial that ended in a fine of \$11,000 and a prison sentence of four years for operating a still. Diamond's chief henchman, Paul Quatroccio, was sent along for company. He got two years and a fine of \$5000.

By the end of the first six months, Chief Assistant Dewey had begun his later familiar practice of chalking up new records. Forty cases a day was the office average, and the speed in handling both criminal and civil suits was higher than ever before. For the unparalleled efficiency of the United States Attorney's office Dewey was given great credit. No one gave him more than his chief, Mr. Medalie, who was in a sense his discoverer.

On taking the office of United States Attorney, Medalie had established a sort of school for his assistants, teaching them his own extraordinarily successful methods by acting as judge in mock trials.

Many of the appointments of previous United States Attorneys had been made as political rewards for lawyers otherwise unlikely to succeed, but Medalie's men were brilliant and eager for public service. The salary was, aside from Dewey's \$7500 as Chief Assistant, at highest \$6000 for each

of the three division chiefs, but the sixty young lawyers who received \$1500 to \$4500 were glad of the opportunity to acquire experience and knowledge. So far the office had not lost one important case.

The mill ground on and the grist was various as life itself.

## Chapter III • WORKING WITH THE FEDERAL GOVERNMENT

THE successes won by Dewey in criminal cases have naturally captured a public interest hard to awaken in civil cases, which are often of even greater meaning and value to the public welfare. But in this field Dewey has had equally consistent and continued success. It is important not to underestimate the knowledge they have given him of governmental structure and activity and of matters affecting the citizen throughout his life, from those concerning his daily bread, milk, and wages on up through municipal, county, state, national, and even international laws and violations of them that come home to him.

Some record is in order, therefore, of a few of the civil cases handled under Dewey's supervision by the Civil Division, headed by Assistant United States Attorney Samuel C. Coleman, now a Justice of the New York City Court.

This work kept the office in continuous touch with nearly every bureau and department in Washington and with major governmental policies, the acts and purposes of Congress, the courts, the new and old statutes, decisions — the whole machinery of our life as a people and a nation.

While Dewey was Chief Assistant United States Attorney for the Southern District of New York, this district was the only one in the country that handled virtually all its civil cases without direct intervention from Washington.

Just as the criminal cases represented a conflict between the individual and the Government, similarly the civil cases involved questions in which the interest of individuals clashed with that of the Government. There was this differ-

ence, however, which probably had a deep and lasting effect on Dewey's knowledge of the functions of the Federal Government: the purposes and effects of the criminal laws were rarely questioned by those charged with violating them. In such cases the answer usually was, 'I did it,' or 'I didn't do it.' In the civil cases, the statutes were always being challenged, and it was incumbent upon the United States Attorney to have a clear understanding of the origin of those statutes, their intent, how they related to previous statutes, and amendments that had been made.

Many of the cases were carried to the United States Supreme Court for ultimate interpretation. These were not ordinary lawsuits. They represented some of the fundamental problems in which our constitutional system was making its own periodical adjustments to social and economic advances. A tax case, for example, was not merely a claim of the Government against an individual for taxes, or an attempt of an individual to get back the taxes that he contended were unjustly collected. It was rather an adjudication of a basic policy of the Government. Every time a new device for evading the income tax or other taxes was discovered, Congress would pass an amendment to stop the gap, and then it would be the United States Attorney's job to uphold the Government's position.

In the famous Campbell case in 1933, Campbell challenged the President's power to stop the hoarding of gold under the new Gold Act. In the preparation of this case, Dewey delved into the financial history of the nation, into its gold, currency, and monetary policies, the greenback cases, the suspension of specie payment after the War Between the States, and legal-tender matters.

Hundreds of civil cases involved international trade and international relations generally. Several of these concerned trade relations with Germany and affected the first German ships that came to the United States after trade relations were resumed following the World War. The German steamship companies claimed that under an old treaty with Prussia they were exempt from tonnage taxes. The question was whether these treaties had been abrogated by the war.



Preparation required the study of old and new treaties of commerce and navigation, their effect on international relations, and the power of the President to modify the Tariff Act, depending on reciprocal treatment in other countries. Those questions are very much alive today.

#### CASES INVOLVING INTERNATIONAL RELATIONS

American law requires that coastwise shipping be done only in American bottoms. In a case in which Canadian boats were used to carry cargo from one American port to another, it was necessary to study the 1871 treaty with Great Britain, which affected questions arising after the War Between the States; also a study of the Merchant Marine Act, the Interstate Commerce Commission Act, and the federal transportation laws.

Many alien property custodian cases brought in complicated questions arising from the Trading with the Enemy Act in the last war. Under the immigration quota laws, fifteen hundred cases were handled in which fines were imposed on shipping companies for bringing in aliens unlawfully. This is not smuggling, which is a criminal offense, but failure to comply with certain health and other civil regulations. In the preparation of these cases, an Assistant United States Attorney was sent to Italy to study conditions under which aliens were accepted for immigration to this country and to take testimony on the precautions taken by the shipping companies.

The Vacuum Oil Company brought suit to obtain a deduction in its income taxes, contending that oil wells which it owned in Hungary had been seized and destroyed by the Bolsheviks under Béla Kun in 1919.

The exact position of the outlying United States territories in the American constitutional system was important in cases relating to the Puerto Rican income tax and its effect on the whole system of taxes in continental United States. Others dealt with special statutes affecting the Philippine Islands and their position in the American system.

Wool smuggled from South America had been confiscated

and suit brought by the Government to collect penalties for unfair competition with the wool-growing states in this country. In claiming as penalties the bonds put up by the importers, the Federal Attorney's office harked back to a statute passed as the first act of the first Congress of the United States in 1789, as well as to subsequent amendments.

There were rulings of the Treasury Department and the Tariff Commission ordering certain merchandise excluded from this country on grounds of unfair competition with American products. In such cases, consideration had to be given to the powers of the Tariff Commission, the analogous powers of the Federal Trade Commission, the Shipping Board, and similar agencies of the Government.

Double taxation by two governments was an international matter. Several steamship companies taxed by the country whose flag they flew as well as by this country for the business they did here found that when the taxes were added up they amounted to more than the business they did. A formula had been worked out to remove that burden, but a number of suits occurred. The English and other foreign tax laws had to be surveyed on corporate finance and international trade.

International double taxation also touched the estates of wealthy people who had property in this country and abroad, such persons as the late Viscount Astor; also large corporations doing business here and overseas. In these suits the tax claims of two countries conflicted. In the Woolworth case, for example, Dewey had to know the treaties between Great Britain and the United States, as well as the legislation implementing those treaties. An Assistant United States Attorney was sent to England to study the Woolworth books and records there, and to make a general survey of the English tax system as compared with the American.

The largest mutual life insurance companies brought suits to recover taxes imposed under the capital stock tax. In order to win these, the Government had to compare the structure of mutual companies and capital stock companies and the whole financial set-up of the companies generally.

Federal taxation of state employees also came up at this

time. An attorney who had acted as referee in a New York state court claimed exemption from the income tax levied on him for his fee. The whole question of reciprocal taxes between federal and state governments required examination.

The distribution of revolutionary literature in the mails was a difficult subject. Benjamin Gitlow, who later testified before the Dies Committee, sued to compel the Post Office Department to distribute *The Revolutionary Age*, then an organ of the Communist Party. After mastering the construction of sedition laws, Dewey in court successfully upheld the position of the Post Office Department in keeping the publication out of the mails.

#### CO-OPERATION WITH THE STATE AND NAVY DEPARTMENTS

In another case, it was reported to Dewey that a book was about to be published which contained certain Navy Department secrets. Dewey recognized that this publication might cause grave embarrassment in our international relations. He went to Washington and conferred with officials of the State and Navy Departments. As a result the author and publisher of the book agreed to withhold it from circulation.

Dewey even had to extend to a group of Indians the protection assured them in law as wards of the Government. They had come to New York with a circus and appealed to the United States Attorney for help in collecting their wages. They collected.

The Pure Food and Drug Act was affected by the shipment of beef and cattle and other products not up to the required standards. Other cases concerned railroads, railroad financing, Government relations with the railroads both in this country and Mexico, banking, the adjustment of claims on American securities held by foreign governments during the war, estate taxes, gift taxes and the devices set up to escape such taxes in contemplation of death, contracts of the War Department, the Navy Department, and others beyond mention for number and difficulty.

In the study of such cases, it was always necessary to determine what remedies the statutes and department regulations were designed to effect, and where the former statutes and amendments fell short of the mark. Many of these cases revealed still existing loopholes and led to other legislation to stop those gaps.

Few men living have had so thorough and so practical a training as Dewey in so many fields of our government.

## Chapter IV • UNITED STATES ATTORNEY

THERE is something both pitiful and grotesque about the mountains of pennies, nickels, and dimes wheedled out of the very poor and the very ignorant by the numbers game, the particular vice of Harlem Negroes till Dutch Schultz, Hines, and others made it a white man's burden as well as a white man's vice.

The almost unbelievable returns from the Harlem policy game brought strange creatures into the net of the income-tax collectors. They were not unfitly called 'kings,' for their revenues were more than royal.

Wilfred Brunder was one of the policy kings of the moment in 1931 and when Dewey laid before the court his heaped-up evidence that Brunder had made profits of \$390,721 and \$603,363 in two years, and had returned no taxes, Brunder pleaded guilty, paid \$45,000 and went to the Atlanta Penitentiary. The newspaper photographs showed him getting into the prison van along with a crooked judge.

According to a radio speech that Dewey made two years later:

'The two cases against Henry Miro and Wilfred Brunder, in which I participated in the Federal Court, were, so far as I know, the only cases against important policy bankers made in recent years. It was there proved that the net profits of the lotteries run by those two men totaled close to a million dollars a year. And since there were at that time between ten and fifteen more policy bankers of equal importance in Harlem, there must have been total net profits of ten to fifteen million dollars a year.'

'Since the Miro and Brunder convictions, many of these games have been taken over and concentrated into the hands of one or two gangs of organized racketeers who also are the bankers and operators of some of the major business rackets in this city.

'If this is a fact, as it seems to be, then the underworld takes ten to fifteen million dollars a year out of the numbers game alone to finance its depredations against legitimate business and the lives of the people of New York. With such a war chest, organized crime has abundant means for corrupting public officials and buying immunity from punishment.'

Even in the Federal Building there were birds of prey pouncing on the poor, whether guilty or innocent. The corridors had been cluttered for years by bail-bond runners and solicitors for shady lawyers. When Dewey found that some of these were ex-convicts, he rounded up the horde and drove them from the building in one grand housecleaning.

Suddenly the newspapers were celebrating a most unpleasant mess inside his own office. One of the young women Civil Service stenographers had secretly married a printer interested in a company under investigation for fraudulent bankruptcy. A week later, she deposited \$10,788 in a new bank account.

As soon as this was discovered, the bride was suspended as a stenographer and subjected to questioning. She not only refused to answer, but threatened Medalie with 'plenty of publicity.' She tossed off ugly charges involving one of Medalie's assistant prosecutors. The delighted court reporters reveled in such headlines as, 'Fired Beauty Gives Fire for Fire.' 'Mrs. — Gives the Lie to Dewey.'

Dewey characterized the charges against the assistant prosecutor as blackmail and 'the most scurrilous attack ever made on a Government official.' He succeeded in exonerating his colleague and, after a year's work, Dewey's assistant, Barent Ten Eyck, convicted the stenographer's bridegroom. His brother, an Assemblyman, was also held in contempt of court for submitting forged affidavits, suspended from the federal bar, and not renominated at the next election.

Unending variety gave spice to the drudgery. An Italian, who pretended to be a duke and who had made a thousand dollars a week for seven years in fraudulent real estate deals, fell into Dewey's all-encompassing net, was tried on mail-fraud cases, and whisked to the penitentiary.

#### A PICTURESQUE SHAKEDOWN

A picturesque way of getting rich gradually was exposed when Deputy City Clerk James J. McCormick, who had charge of the Marriage Bureau in the Municipal Building, was indicted for tax-evasions on a fortune he was making in wheedling large tips out of bridegrooms. His salary was \$7500 — the same as Dewey's — but he had accumulated \$222,388 by running the chapel as a shakedown. Though he was a Tammany district leader, he smiled on bridegrooms who slipped him five dollars, but muttered 'Cheap skates!' at those who tipped him only a dollar. Even the poorest bridegrooms felt that the moment was no time for parsimony, and submitted to this romantic pinkmail.

As a result, the toll-collector McCormick amassed so much money that he kept thirty-four bank accounts alive, chiefly in the names of his wife and daughter. When he learned that he was being investigated, he hastily paid his income tax. That made it difficult to convict him, but Dewey did. He wanted to prove that federal justice could not be bought off. McCormick was fined \$15,000 and sentenced to four months in prison. He was the first of the Tammany leaders whom Dewey removed from office, leadership, and civil life.

Odious as this petty graft on Cupid might be, Dewey ran afoul of a more horrible kind, a wholesale robbery of the helpless poor.

As the raggedest Negro was the prey of the policy purveyors, so the lowliest laborer was — and is — the dupe of certain crooked labor-union bosses.

It is dangerous to question the actions of any labor leader, since he always has the easy and popular retort that his critic really hates labor and is a capitalistic tool for the destruction of the unions. Dewey was not to escape this counter-attack,

and he was to be damned as a 'labor-baiter' by the very toilers he was trying to save from brutal crooks who used them and abused their trust.

It was through the income-tax glass that he now looked into the customs of certain labor dictators whose extortions from their own union members and from helpless employers were great enough to bring them into the high brackets.

Patrick Commerford, the head of a union of hoisting engineers, had amassed a private fortune — a very private fortune — by the peculiarly mean custom of pretending to protect his members, collecting dues from them, enforcing strict discipline on them, calling them off their work at will, leaving them and their families to suffer long periods of idleness, then bringing them back to work with no increase of pay or betterment of hours after he had extorted what he could from their employers. He was indicted for tax-evasion on \$63,000, sent to jail for a year and a day, and fined \$2000.

In trying to hoist this hoister with his own petard and prove how much he had sweated out of his people and their employers, Dewey encountered the ancient evil of the terrified or recalcitrant witness, the witness who is afraid to incriminate himself or to bring vengeance on himself by telling the law the truth.

Other prosecutors had been stopped short by the desertion of such allies, but Dewey developed a technique that he made famous later and used for many resounding victories. While he gave the most elaborate protection and secrecy to the victims who lent the law their aid, he caused unwilling witnesses to be more afraid of him than of the criminals. He taught the recalcitrant that he could and would put even the wealthiest into jail.

One employer testified that the hoisting union boss had forced him to pay \$7000 to avert a pretended strike. Not a cent of this went back to the union, of course. But another employer who had paid through the nose would neither confess that he had been blackmailed nor name the amount he had paid. He had a subway job amounting to \$43,000,000. To Dewey's questions, based, of course, on carefully gathered



evidence, this contractor would give nothing but obviously evasive answers. At Dewey's request the court sentenced him to sixty days in jail for contempt.

There was a bootlegger whose energies had brought him in some \$2,000,000. He banked it under various fictitious names. When Dewey and the rest of the staff ran these down, one of the bankers refused to betray so profitable a customer. So off he went to ninety days in jail for obstructing justice by 'evasive and contumacious answers.'

The income tax is a form of patriotism for which few good words are said except by the exempt. But when one considers how often it has been the only means through which some of our most infamous criminals could be brought to a halt, one almost wonders how we could have kept our Government together without it.

#### THE INCOME TAX A USEFUL WEAPON

When state and county officials with direct legal power were strangely inactive, the people's only hope lay with the Federal Government. So with the income tax as his only weapon, Dewey cut his way into the depths of the jungles of crime and learned how criminals were being protected by politicians, district attorneys, police and judges, either downright dishonest or so indifferent that their very indolence was treason. He groped deeper and deeper into the dark, and learned dramatic, blood-chilling facts as he fought his way through prosaic entries in books, through tons of vouchers and deposit slips.

There was an 'artichoke king,' the Sicilian Castaldo, who had found the market for California artichokes rather unimportant in the hands of individual shippers, but very important if gathered into one kingdom. So he gathered it in. The other importers were restive for a while and struggled for their so-called American independence, but their artichokes got held up till they spoiled, their trucks got held up, they themselves got held up and beaten up. Finally they bowed to King Castaldo and he was able to stow away \$330,000. But he forgot his Uncle Sam. So Dewey reminded

him. He paid his tax, and then Uncle Sam paid his board in jail.

But Dewey was wearing shackles all the while. His official power virtually ended with exposing tax-evasions. He often wondered why the local authorities did not do something about the hideous reign of crime in their bailiwick. One of the reasons was, of course, political. The crooks were useful at election time. They contributed handsomely to campaign funds and they furnished voters who did not care where they voted, or how often. Hence the huge corruption in politics shielded the enormous crimes of almost unknown outlaws who were stealing almost incredible sums.

#### THE BEGINNING OF A LONG HUNT

Dewey had been in his federal office only three months when he set four assistants to work on the apparently hopeless task of dragging to the light of day the crimes of two men afterward so notorious that their names became almost household words in a dark age that Dewey helped to render ancient history. These two men were Dutch Schultz and Waxey Gordon.

Dewey's assistants worked on their cases for almost three years. It took them two years to gather proof for the indictments of both at about the same time for tax-evasion.

As soon as Dutch Schultz learned from his employees that his past was being investigated, he disappeared and kept out of reach until Dewey had left the office of United States Attorney. His instinct told him to wait till some other attorney came in to take over his case, and his instinct proved itself right when he won eventual acquittal, though that was only a brief benefit.

Waxey Gordon fled also, but was captured after two months, in May, 1933, while Dewey was at work on the case of another millionaire tax-evader, Charles E. Mitchell, of the very opposite social pole. Gordon was held in \$100,000 bail and his trial came soon.

Dutch Schultz was charged with evading the tax on an income of \$481,000. It was proved that he had made enough

money in 1930 to owe the Government \$98,000 in taxes. Bank deposits of his to the amount of \$856,000 in six months were traced. But Dutch Schultz could not be traced.

About this time there grew up a strong movement to send Medalie to the United States Senate. He consented to run and took leave of absence from the office, leaving Dewey as Acting United States Attorney. Incidentally Dewey also, at the age of thirty, and outside of office hours, managed Medalie's campaign.

In November, 1932, Dewey issued seven hundred warrants for illegal registration, and one hundred United States Marshals were appointed to guard the polls. As Acting United States Attorney in a public statement, he pointed out: 'Federal statutes make it a felony to solicit or accept bribes, or to offer or give them. It is a federal crime to oppress or intimidate a voter.'

But this had long been known. Who cared? Dewey had no prophetic foresight of how much the honesty of the polls would mean to him five years later.

The odds against Medalie's election on a Republican ticket in that overwhelmingly Democratic year were too great to overcome. Medalie accepted his defeat with his usual grace, and returned to his United States Attorneyship.

In the midst of the unlucky campaign, Dewey had a bit of luck that he has described as the greatest event in his busiest seven years. On October 2, 1932, his wife bore him a son. They named him Thomas Edmund, Junior. His demands would keep her busy and his name would remind her of the husband of whom she saw less and less, as he found more and more work piled up before him.

His office, early in the year 1933, arrested and tried the former multi-millionaire Charles E. Mitchell for criminal evasion of an income tax amounting to \$657,152. This banker was one of the most prominent financiers in the world and his prosecution was initiated by Medalie and Dewey before Roosevelt's election, but completed with his approval.

The first complaint against Mitchell was drawn up by Dewey. He later added other indictments for evaded taxes.

in enormous sums. The prolonged and sensational trial prepared under Dewey's direction and tried by Medalie ended in defeat. Mitchell was acquitted of criminal evasion by a sympathetic jury, and great numbers of people were happy, because Mr. Mitchell was a charming and a generous man. But the tenacious Dewey was not finished with him.

#### WHAT REPEAL MEANT

In June, 1933, there came a vast revolution in American law. The repeal of the Prohibition Amendment struck a devastating blow at the livelihood of countless zealous persons whom it had enabled to build up gigantic fortunes by gigantic lawlessness, corruption, intimidation, wholesale murder.

When this army of expert law-wreckers was turned loose on the country to devise new ways of earning a dishonest living, the United States Attorney's office found its own work somewhat lessened, since there were no more liquor cases to try. Though the repeal was not to go into effect for six months, the honest and economical Medalie promptly reduced his staff and made such other reductions that he could announce an annual saving of \$115,035.

But there was no cutting-down of efficiency, and the *New York Times* of August 7, 1933, again paid tribute to a new record:

Medalie doubles speed of justice. Best results since 1911. Criminal cases disposed of faster than at any time in the history of the office. The trial calendar is up to date for the first time in years. Verdicts confirmed on appeal in 19 out of 21 cases. Convictions obtained in 82.2 per cent of the trials, compared with a general average of 69 per cent in the previous ten years.

Credit for this was due, of course, in great measure to Chief Medalie, but he paid generous tribute to his Chief Assistant Dewey.

On that day in 1930, when Dewey had come bearing his firm's request for Medalie's legal services, Medalie had been

struck by the young man's remarkable combination of thoroughness and clarity and vigor. He felt, he says, that he was in the presence of veritable genius.

When Medalie became United States Attorney and made Dewey his right hand, the office had been full of dead wood and red tape. Though Medalie was nearing fifty and still hale and hearty, he had approved Dewey's eagerness to clear out the ancient timber and bring in youth.

An average assistant would have been crushed by the enormous details of administering so big an institution, and learning all he must know about the immense fabric of government, but Medalie did not stifle Dewey's ability as a trial lawyer, and suddenly after three months, without warning, turned over to him the entire management of the Quinlivan case. As he puts it:

'I dropped him in the cold water and let him swim out. He made a damned good job of it — so good a job that I relieved him of some of the administrative work and turned him loose on the racketeering field. I gave him more and more to do in the actual trials as well as in the preparation of the cases.

'Our main idea was that we should not pick on the small fry, but use them to reach the big crooks.

'The third case Dewey took part in was the basis for his later success in convicting the big Tammany boss, Jimmie Hines. We stumbled over the fact that the policy king, Miro, was sending gifts to Hines. Why? Also we ran across the work of the crooked lawyer "Dixie" Davis, who turned out to be so liberal a paymaster for Hines. But of course we could not hope to reach those men at that time.'

#### MR. MEDALIE RECOMMENDS HIS SUCCESSOR

It was on November 21, 1933, that Medalie decided he had had all of the public life that he could afford. In his nearly three years he had given up a possible income of \$400,000 for a salary of less than \$30,000. A private practice too long neglected can hardly be revived, and a Democratic administration was gazing longingly at his office.

President Roosevelt and Attorney General Cummings had not yet agreed on his successor, so nine federal judges unanimously elected Dewey to the post vacated by his chief.

The papers announced, 'Mr. Dewey is thirty-one years old and is the youngest man ever designated as United States Attorney in the Southern District of New York.' One headline called it 'A Triumph for Baby Prosecutor.'

Medalie said:

'I purposely delayed resigning until two days after Tom began the trial of his biggest case, against the racketeer, Waxey Gordon, so that the new United States Attorney could not swipe the case from Tom and steal the fruit of all his long preparation.

'From the viewpoint of preparing a case, Dewey is simply superb. From the viewpoint of trial ability, one of the judges told me that he had never seen a case better prepared or better tried than the Waxey Gordon prosecution. And that was back in 1933!'

He had been directly responsible already for the successful handling of a mountain of civil business as well as for the downfall of his first Tammany Hall leader, the Marriage Bureau grafter, McCormick, the Assemblyman David Paris, Commerford, Quinlivan, and many others.

He was coming up into public recognition. His photographs were everywhere too. He was shown taking the oath of office, taking a cup of coffee, taking a puff of tobacco, smiling, informal, unpretentious, yet free of nonsense, insincerity, or pose.

He startled the newspapers by his unheard-of behavior. He came up from the Waxey Gordon case just long enough to take the oath of his new office; then, instead of lingering for congratulations, refused all interviews and dashed back to his post.

The Waxey Gordon case deserves a little special attention, for it is a type of the appalling conditions tolerated and connived at by political leaders in the era before Dewey.

As soon as it was suspected that the Government was on Waxey Gordon's trail, murders began to multiply. Waxey was not small fry. Waxey was a magnate and lived like one.

His illicit businesses made him a profit of \$4,500,000 in two years, on which Waxey paid a tax of \$2010. He had accounts in two hundred banks, and sixteen murders in three months were credited to his 'mob.'

## Chapter V • THE WAXEY GORDON CASE

A FOREIGNER or an historian of dignity might well imagine that there could be nothing of high significance in prosecutions involving people known to fame or infamy by such titles as Waxey Gordon, Tootsie Herbert, Lepke and Gurrah, Charlie Lucky, Bennie Spiller, Little Davie, Tommy Bull, Good Time Charlie, not to mention Cokey Flo, Crazy Moe, and Gashouse Lil. Such names have no such noble epic sound as the famous trials of Socrates, Joan of Arc, Mary Queen of Scots, Sir Walter Raleigh, Clive of India, Aaron Burr, Dred Scott, and other famous defendants.

Yet those grotesques concealed in their very caricature and squalor some of the most vital problems that ever confronted our civic and national safety and honor.

The whole fabric of free government was threatened. Some of those men with their confederates had assumed an absolute dictatorship over rich men and poor, over employers and laborers, over judges and officials, over the very ballot. They poisoned the wells of justice and turned police forces into their own paid allies. The taxes they assessed mounted to fabulous sums and were imposed without recourse or appeal. Business men dared not volunteer testimony as to their own shame, dared not complain of mayhem, outrage, or wholesale robbery. The clothes the public wore, the very bread and meat they ate, paid impost to the outlaws. Floaters cancelled the votes of decent men. There seemed to be no hope of release or reformation.

Everywhere there was still, of course, a pretense of self-respect. The criminals permitted the forms of liberty and



justice to survive. Petty malefactors were sacrificed to punishment. As if the public were barking seals, now and then the hidden rulers 'threw 'em a fish to keep 'em quiet.' Occasionally the 'big-shots' blundered into jams and had to take a little medicine; but this was usually by their own consent. They took it with a laugh. If they were guilty of a felony, they pleaded guilty to a misdemeanor. Many of them had been arrested dozens of times and never once convicted.

Everybody knew that they were in league with certain higher-ups more or less official, more or less recognized, but since some of the prosecutors and some of the judges were themselves the creatures and serfs of the criminals, or their political allies, or both, there seemed to be no way of re-establishing the law in power.

And then young Dewey came along. He made no spectacular entrance. He quietly gathered about him a company of other honest young men who knew and revered the law. Then they vanished. About the time they were forgotten, suddenly they reappeared. They seized a score or more of shady persons. They disappeared again. There was a muffled explosion. There were astounding days in court. By legal processes as relentlessly pursued as their preparation had been painstaking, Dewey and his staff exposed the criminals and sent them away to prison.

#### THE WORD 'RACKETEERING'

The word 'racketeering' took on a national significance. Like all our words, it has many usages, but it has a technical meaning that should be conserved. Dewey made it properly infamous, and was later asked to write an article on it for the *Encyclopaedia Britannica Year Book*. But before that he had defined it at a 'Crime Conference' called in 1935 by the Governor of New York:

"'Racketeering' is a much-abused and overworked word, used to describe almost every possible type of crime.... It should be limited to the systematic extortion of money through intimidation by an organization conducted for that purpose.... Frequently a trade advantage is given to the

victims in return for the extorted money. Immunity from union conditions is sometimes provided. Whatever the consideration, the racket is usually sound criminal economics . . . so skillfully directed by corrupt lawyers and criminals that it may be said to be an applied science. In many industries, the racket has grown so powerful that it can enforce its mandate by fear alone. Only in the cruder and more primitive rackets are violence and threats still necessary or the shake down plain and brazen. Legal means are customarily used to achieve illegal objectives; and illegal means are used to achieve otherwise legal objectives. A well-devised cloak of respectability and legitimacy is generally present. The innuendo and the veiled threat are sufficient to exact payment. The fake trade association is the most common device for receiving the money. . . .

'Criminal investigation, prosecution and the courts must adapt themselves to this reality or legitimate business will be strangled. . . . The hands of the organizers and operators of a racket rarely appear. Their work is done by hirelings whose apprehension seldom serves even as an interruption of the work of the organization. . . . The minor agent of the racket can properly be regarded only as the symptom of a malignant disease. Diseases are not cured by removing symptoms. . . .

'Every large racket is based upon the successful intimidation of dozens or hundreds of separate business men. It is self-evident that any business man who has been sufficiently intimidated to pay the price of the racket is sufficiently intimidated to refuse testimony that may expose him to the reprisals of the racketeer. . . . Analysis of his books by accountants is frequently necessary in order to compel the business man to tell the truth. . . . It is obviously a prosecutor's job to make him talk. No policeman can possibly do it.

'Broadly speaking, an entirely new technique must be brought into use. . . . Preservation of absolute secrecy concerning investigation of crime is the first principle of successful law enforcement. And yet this is probably the most flagrantly violated of all rules of good taste and good prac-

tice. . . . We daily read in the press of prosecutors and police who give away their whole cases, often to the utter destruction of the case and the interest of their client, the State. . . .

'There are defects in the criminal law; criminal procedure is in sad need of a complete overhauling. But vigorous law enforcement need not wait upon law reform. . . . Good law enforcement will be procured when competent and trained investigators work, with a modern technique and approach to their task, together with competent, vigorous lawyers who are willing to devote long, quiet effort to the investigation and prosecution of crime.'

Dewey's methods of unprecedented deliberateness had sudden and quick results; and so many slow campaigns were carried on simultaneously that their explosions finally seemed to follow in the quick succession of machine-gun fire.

One of the greatest of these early surprises from the new strategy came from the case developed over almost three years of work supervised by Dewey during the Medalie régime. Waxey Gordon was the first top-rank criminal Dewey extinguished.

'Waxey Gordon' was really Irving Wexler. He had worked up a gigantic power through the opportunities the Prohibition laws had opened to men who might have otherwise gone through life as obscure knaves. Prohibition gave crime a certain grandeur that it may not soon see again. In toppling Waxey Gordon Dewey marked an epoch.

A later speech of his sets Waxey in his proper perspective: 'Ten years ago Al Capone was the criminal Czar of Chicago. Gradually he became libel-proof and the press printed the exploits of his mob just as they would those of any other magnate of a huge business. In the East, the criminal empires of Waxey Gordon and Dutch Schultz had reached such proportions a decade ago that newspapers took the risk of exposing and constantly reporting the activities of their empires. The conscience of the community became so aroused that federal action resulted when local prosecution had collapsed.'

The 'empires' of these monsters were so colossal that it was.

impossible to overthrow them except by colossal effort, yet Dewey has always spent far less money than many other prosecutors whose results were almost nil. For money he substituted labor — infinite labor — ingenuity, secrecy, and an indomitable patience. He would not act until the order of battle was complete to the least detail, till the case was ready for court, ready for every device of the ingenious masters of criminal law whom the criminals engaged. Before Dewey tried a case he even made ready to conduct the appeals that inevitably follow conviction in our courts.

Before he called Waxey Gordon to the bar, Dewey and his fellow assistants had interviewed over one thousand witnesses, had followed up no less than a hundred thousand telephone calls. Since Gordon kept his moneys in two hundred banks and used every trick of concealment, they ransacked mountains of bank records.

Waxey was an ex-convict who had built up an immense illicit beer industry in northern New Jersey, centering about Hoboken. He owned three breweries. He had his own navy of trucks. His net annual income was over a million a year. A banker would say that this was five per cent on \$20,000,000. There were few persons in the United States making so much money.

#### WAXEY GORDON'S LIBRARY

To keep the control in his own hands he and his satraps had stopped at nothing, from murder down. His wealth grew so rapidly that he owned two hotels on Broadway. He added a night club and a trade in narcotics to his beer business; he acted as an angel in theatrical productions, wintered in Florida, kept his family in luxury in New York, sent his sons to the best schools; as Dewey said of him, 'He lived on West End Avenue in a ten-room apartment with a \$4000 library of books that had never been opened.'

Waxey thought he had thought of everything to keep his wealth concealed from the Government. His bank accounts were so large that, as Dewey proved, bankers falsified their records to retain his business. Otherwise respectable citizens

had their whole bookkeeping arranged to conceal transactions with him.

When Treasury agents visited certain banks in New Jersey to investigate Gordon's accounts, the bankers would actually detain them in the front office until the racketeer's agents could slip in at the back and withdraw their deposits so that they could not be seized. The police of Hoboken did even better. When agents of the United States Treasury appeared in that city on the trail of Gordon's money, the police seized the Treasury agents on the street, charged them with forging their credentials, and held them while the racketeers slipped away.

Nothing was too daring or too insolent. For instance, when federal agents working under Dewey arrested one defendant in Gordon's gang and left him in charge of the police till morning, a commissioner visited him at night, fixed his bail at five hundred dollars, and set him free. He was gone with the dawn, and was never recaptured.

The District Attorney of New York County, Thomas C. T. Crain, attempted a prosecution, but gave it up, saying he could not find witnesses brave enough to testify. But Dewey brought hundreds of witnesses before the grand jury and protected every one of them. Those who would not testify were treated as bad citizens. One man who refused to reveal a minor financial transaction of Waxey's served two months in prison for contempt. A banker went up for ninety days. Dewey made novel use of what Stuart Rogers called 'the bullet-proof witness — the unimpeachable, silent betrayer that racketeers cannot reach, cannot intimidate, cannot buy, cannot kill — the hidden bank account.'

It was not easy to run down Waxey's moneys, and Dewey was often twitted with delay, accused of sleeping at his post. But he would not be ridiculed into precipitate action.

With Treasury Department accountants he unraveled Gordon's elaborate system of false auditing. He made use of handwriting experts. He linked small checks to large accounts. He had one of Waxey's bookkeepers jailed for contempt. He frightened Gordon's brewmaster into telling all. He traced a whole fleet of beer trucks to Gordon's owner-

ship partly through the testimony of Helen Delbeck, a fearless waitress in a lunchroom near one of Waxey's garages.

When four men associated with Gordon's activities were murdered, the newspapers announced that they were witnesses of Dewey's and their erasure would wreck his case. But they were not witnesses.

Gordon and two of his lieutenants were indicted for evasion of taxes on a net income in two years of \$1,618,690. A second indictment charged that Gordon had netted \$2,364,000. When Dewey was good and ready he brought the case to trial. For two years he had been gathering the testimony of real insiders, and not one of those was suspected until they all appeared in court, to the great and dramatic consternation of Waxey. Dewey in his opening speech to the jury had not even mentioned them.

#### CONVICTION IN FIFTY-ONE MINUTES

He had to make the jury see the intricate ramifications of Gordon's evil traffic; in trying the case he did everything he could to clarify the chaos. He kept before the court a great chart prepared from telephone company records, showing graphically the telephone toll calls and how they linked the defendant to his chain of activities. He used this device often later.

The public was beginning to realize how much Dewey was hampered and how much he was accomplishing. The New York *World-Telegram* commented:

The office of District Attorney Thos. C. T. Crain remained inactive and apparently unconcerned over New York's commercial rackets which, enforced by violence, take a tribute of \$100,000,000 or more annually. Yet Mr. Crain's office has twenty or more state laws at his disposal while the only federal laws which can be used are the income tax and anti-trust statutes.

Working with limited resources and unlimited zeal, Dewey presented such a case that the jury needed only fifty-one minutes to convict Gordon and his lieutenants on all

counts. Gordon was fined \$80,000 for tax-evasion and sentenced to ten years in the penitentiary. His incarceration probably saved him from assassination, and his later appeals were unsuccessful.

Five days after his conviction, on December 1, 1933, the Prohibition law that had made Waxey and made his fortune went out of existence. That was a bitter jest for Waxey, but a bitterer satire on the Prohibitionists. If hell is, as they say, paved with good intentions, Prohibition must have laid down square miles of it.

At the end of the trial, Judge Frank J. Coleman said: 'It is my firm conviction that never in this court or any other has such fine work been done for the Government. If ever again I hear the criticism that there are no longer enthusiastic and able young men in the Government service, I shall refer the speaker to this case.'

And now in his first sensational success, Dewey made acknowledgments he has never ceased to make. A New York editor wrote:

We liked Dewey's fine tribute to the federal aides and agents whose long hard work brought Beer Baron Waxey Gordon to justice. In the first flush of his own victory the young prosecutor did not forget to say:

'This case could not have been presented or won without the brilliant and faithful work, for days and nights and on Sundays during several months, of Assistant United States Attorneys J. H. Terry, G. S. Tarbell, Jr., Barent Ten Eyck, Nicholas Rogers, Jacob Grumet, and the special agent in charge of the intelligence unit of the Treasury Department and his remarkable staff.'

There are teeth in Mr. Dewey's grim warning: 'If any witness in this case is ever touched by reason of his testimony, the Federal Government will never stop until the responsible parties are punished to the full extent of the law.'

The efficiency of the federal law forces gives point to Mr. Dewey's promise that 'Dutch Schultz is next.'

But Dewey had not made that promise, at least not to the public, only to himself. He and the other Assistant United States Attorneys had indeed been working on the

case of Dutch Schultz while preparing the case against Waxey, but they were destined never to overtake the object of their long pursuit.

At the time of Waxey Gordon's trial, Schultz was in hiding. He surrendered only after Dewey had left the office of United States Attorney. His first trial for income-tax evasion ended in a disagreement of the jury — the second in an acquittal. He thought himself safe, only to find Dewey still pursuing him, but from another office.

For by now President Roosevelt and the Attorney General had found a good Democrat to be a successor for the young Republican Dewey. After five weeks as chief of the office he was replaced by Martin J. Conboy, who had served as special counsel to Governor Roosevelt in the Mayor Walker trial at Albany. Later, after Mr. Conboy gave up the federal office, he served as the attorney on the appeals for one of Dewey's most conspicuous victims, Luciano.

Conboy was sworn in as United States Attorney on December 27, 1933. Photographs of the ceremony show Postmaster General Farley back of Mr. Conboy. The judge selected to administer the oath is Martin T. Manton. Back of him stands Dewey, who was five years later to expose the judge and drag him from the bench he was already secretly using for his own profit.

While Dewey was packing up for private practice, the New York Bar Association asked him to investigate charges of misconduct on the part of another judge, Harold L. Kunstler of the New York Municipal Court. The invitation was a high compliment, but it brought no fee. Nevertheless, Dewey accepted the gratuitous task.

He was to find that 'private practice' was an irony. The public would not let him alone.



## Chapter VI. THE 'RUNAWAY' GRAND JURY

AS A LAWYER on his own once more, Dewey took offices at 120 Broadway. Clients were waiting to retain him when he opened it, but the first order of the day was the engagement of another lawyer and an accountant to help him in the investigation of Judge Kunstler. He had no power of subpoena.

On the very day of leaving office as United States Attorney, and as soon as he had witnessed the swearing-in of his successor, he began the study of the charges against the judge. A case had already been prepared for the Bar Association, but it had not satisfied the Association; nor did it satisfy Dewey. He built up his own so cautiously that, once more, he was accused of unnecessary delay. By March of 1934 the complaints were so loud and numerous that President Thomas D. Thacher of the Bar Association had to protect him from a demand for his resignation by refusing to act on it. By the time Dewey was finally ready, four months had passed and he had three times as extensive a case as the Bar Association had expected.

In the meanwhile he had been diverted briefly to the case against the banker Charles E. Mitchell. The criminal charges for income-tax fraud were disposed of, but the Internal Revenue Department had secured the appointment of Edward S. Greenbaum as an Assistant Attorney General to collect the unpaid income tax. Mr. Greenbaum indicated that Dewey knew all about the case. So Dewey was called in as Special Assistant to the Attorney General and the Government paid him a fee of two thousand dollars for securing a judgment of a million dollars against Mitchell.

When Waxey Gordon's appeal came up, the Attorney General appointed Dewey again as a special assistant and he defeated the appeal. Almost always when he convicted, convictions stuck.

Judge Kunstler had excited the suspicion of the Bar Association because of 'the singularly successful record of three insurance companies in litigation before him.' He had been appointed to the Municipal Court by Mayor Walker in 1928, despite the protests of the Citizens' Union and the Bar Association. He had been a close friend for twenty-five years of one Charles Leef, who was famous as a 'fixer.' Sometimes Leef would actually sit on the bench with the judge. At other times he would go to the bench and whisper to him. Lawyers testified that when Leef whispered, the eloquence of the lawyers was wasted.

When Dewey was ready for trial, he petitioned the Appellate Division on April 12, 1934, to remove Judge Kunstler, and the court ordered the judge to show cause why not. It must be embarrassing for a judge to find himself suddenly on the wrong side of the bench.

The judge's answer was filed in due course and two months later the trial began.

#### JUDGE KUNSTLER'S DEPOSIT SLIPS

Kunstler was charged with five major offenses against the administration of justice and incidentally of the minor offense of living in one district and being elected in another.

During the cross-examination of Kunstler, Dewey suddenly laid — not before the trial judge, but before the judge on trial — Judge Kunstler's deposit slips, 'as an aid to the refreshing of his memory.' The sight of the documents dazed the judge and threw him into confusion. Dewey forced him to admit that in three years he had banked \$126,000 above his salary. The judge enacted surprise and made the stupefying statement that he kept no check stubs.

After the case was closed and before judgment could be rendered, Kunstler sought leave to reopen the case, explain his deposits along new lines, and save himself. On his second

chance he called two witnesses whose credibility was sadly shaken. Then he took the stand to confront another of Dewey's operations in brain surgery — without ether. After a morning and afternoon of cross-examination on his new story of high finance, the judge took a long breath and gave up — announcing his resignation.

As judges caught in uncomfortable accusations are apt to do, he put on a face of self-sacrifice and took the high ground that his 'usefulness was impaired by the removal proceedings,' and he bowed to unjust suspicions for the good of the State.

This was the same lofty motive alleged five years later by Judge Manton, when he was unseated, on charges presented to Congress by Dewey. So Judge Kunstler led off the line of tainted jurists whom Dewey assailed all the more violently because he was himself a lawyer, and was revolted by the numbers of his colleagues who made crime possible and profitable to themselves as well as the criminals.

Disbenched and disbarred, Judge Kunstler left New York with a woman who had been convicted of keeping a house of prostitution. Two years later even this woman complained of his greed. She declared that the ex-judge had stolen her car and her jewels.

It chills the blood to realize the true character of some of our judicial officials, how long they serve and what power they wield; how often they use it to protect, not the flock but the wolves.

After Kunstler's downfall, Dewey urged reforms in the procedure for the removal of judges. In his report to the Bar Association he wrote: 'There seems to be always a small percentage of judges whose presence on the bench brings the bench and bar into disrepute. Action against such judges is, however, rare and sporadic.' He advised that the Bar Association be given power of subpoena for preliminary investigation. The report was approved, and in 1939 such power was conferred in specific cases by action of the courts.

In his boyhood days Dewey had taken delight in keeping his books minutely and accurately. Later, he realized that accounts kept ill or well, or all too well, are a fertile field for

clues if one has the tireless patience to study them as with a microscope.

At this time he met and engaged at his own expense A. J. Gutreich, whom he calls 'the greatest accountant I have ever known.' He did a stupendous job in the Kunstler case. He has a strange flair for scenting crookedness. He can often glance at a page of figures and spot by instinct suspicious entries.' After that he never lost touch with Mr. Gutreich, who later occupied the important post of chief accountant in the District Attorney's office, where he solved mysteries by analyzing huge bales of ledgers, vouchers, receipts, deposit slips, and added arithmetic to the tools of the detective.

While clearing up the strangely different cases of the appeal of the racketeer Waxey, the income-tax case of the banker Mitchell, and of the judge Kunstler, the indefatigable Dewey was speedily developing a private practice that promised him wealth. People in search of legal knowledge and technical ability sought his counsel, and he was soon earning an income of fifty thousand dollars a year.

Private practice had restored him to his wife and son. They had a sizable apartment in New York, and for the summer rented a comfortable home in Tuxedo Park. He played tennis, sailed a small boat, and worked out in vigorous games of squash.

Meanwhile his activity in the Republican Party did not slacken, and he kept alive his interest in public welfare, especially in the strengthening of the law and the removal of its ancient evils of delay and inefficiency.

In the Bar Association he was made chairman of the Committee on Criminal Courts, Law, and Procedure. His committee, on February 25, 1935, advocated far-reaching revisions of the codes so as to permit the prosecuting attorney to comment unfavorably on the defendant's refusal to testify; create a presumption of ownership when firearms are found in an automobile; establish a central felony court; refuse bail to twice-convicted persons; forbid lawyers to work for rackets; and give a ten-man verdict authority in all trials except murder.

The Bar Association endorsed every reform Dewey recommended, but getting them adopted was something else. Still, they gained increased recognition for his intelligence and far-sighted zeal in breaking down the high walls about crime and giving the law speed, directness, certainty.

### ‘COLD-WATER TACTICS’

Meanwhile, all unknown to him and to them, a body of high-minded New York citizens was preparing a new public career for Dewey of a far more dramatic nature. The so-called ‘runaway’ grand jury had started a new revolution and declared war, not only on the incompetent authorities, but also on the darker powers behind the throne.

The District Attorney of New York County at that time was William C. Dodge. The grand jury, which was supposed to aid him in punishing criminals and repressing crime, suddenly revolted against what they called his ‘cold-water tactics.’ The foreman, Lee Thompson Smith, startled the city by a declaration of independence: ‘We have labored under the most difficult handicaps. Every conceivable obstacle has been put in our path.’

As it transpired later, though the city was being bled of what some estimated as high as a hundred million dollars a year by the policy game and Dodge announced that he would probe it, he put in charge of the probe a young lawyer who was named Boston and was fresh from a college in Boston, and who confessed later, under Dewey’s cross-examination in the Hines trial, that his only experience in criminal investigation had been as ‘a child detective during the World War.’

The runaway grand jury would not tolerate Dodge or the substitutes he suggested. On May 13, 1935, it excluded his aides from the room and would not even listen to them. It demanded a new and special prosecutor to make a real assault on the evils it espied. Dodge agreed to appoint a special prosecutor from a list to be prepared by the grand jury. The jury suggested six names to Dodge as acceptable to it. Dewey’s name led the list. Dodge disapproved of the whole

six, and offered instead Harold H. Corbin, a former associate of Max Steuer, a leading Tammany lawyer. When the jury rejected Corbin, Dodge threatened to disband it.

The situation had grown so tense that on May 22, three prominent New Yorkers telegraphed to the Governor, protesting against Dodge's activities in defending his inactivities. The jury appealed to Governor Lehman to remove Dodge and assign it a special prosecutor.

The new president of the Bar Association, former Supreme Court Justice Clarence J. Shearn, strongly recommended Dewey for the post. No attention was paid to the suggestion.

The rising protest over the corrupt condition of New York under Democratic control was growing to hurricane proportions, and finally on June 24 the Governor decided to intervene. He submitted the names of four lawyers to Dodge with a request, amounting to a warning, to appoint one of them as a special prosecutor. To remove all suspicion of partisanship, the Governor named only eminent Republicans: Charles E. Hughes, Jr., George Z. Medalie, Thomas D. Thacher, and Charles H. Tuttle.

None was willing to accept and when the four conferred together, Dewey's mentor Medalie made a suggestion, which they accepted. They all declined the service and united in a recommendation that Dewey be appointed.

Dewey's name awoke enthusiasm and hope. The *World Telegram* published an editorial headed: 'Make it Dewey!' The *Times*, the *American*, almost every paper in New York, joined the demand. Civic and business organizations, realizing that crime was bleeding New York white, clamored for Dewey and for no one else.

Governor Lehman telegraphed each of the four lawyers that he was 'surprised and disappointed by their joint statement that they are unable to accept this call for public service.' He summoned them to a parley. They were adamant for Dewey. With scant enthusiasm Governor Lehman finally yielded, protesting: 'I'll appoint Dewey since you all insist, but I still say he is too unknown.'

'Within a few weeks after you appoint him,' said Medalie, 'he'll be one of the best-known men in the country.'

Governor Lehman just laughed.

Technically, the Governor had no authority to appoint a special prosecutor, but he could supersede the District Attorney, and he strongly implied that he might do so. The Governor added a recommendation, tantamount to an order, that the Special Prosecutor should be allowed to be 'as independent as he wished to be.'

Technically again, Dodge could have discharged Dewey soon after appointing him; but with the public so alert and Dewey so popular, such action would have provoked a new tempest. Dewey seemed to be popular with everybody but Governor Lehman and Mr. Dodge. As time went on he grew even less popular with them.

As the head of a special trial term of the Supreme Court, the Governor designated a Republican judge, Philip J. McCook.

#### A RELUCTANT APPOINTMENT

District Attorney Dodge matched the Governor's deliberateness with his own, but finally sent for Dewey, and, in a forty-five-minute interview, offered him an appointment as Deputy Assistant District Attorney, and assured him of a free hand. Dewey accepted.

Dixie Davis later testified that he did his utmost to prevent the appointment of Dewey. He knew that Dutch Schultz had blamed Dewey for making a fugitive of him. He warned Hines that Dewey would never stop and would 'destroy us all.' Davis had encountered Dewey far back in the trial of Miro and he probably suspected that Dewey had his suspicions of Hines as a partner of Dutch Schultz.

According to Davis, Hines went to Dodge and urged him to keep Dewey out, and Dodge said he would do his best, but could not avoid it if the Governor ordered it, as, of course, he did at last.

The metropolitan newspapers were jubilant, but one Brooklyn editor ridiculed the importance of the whole agitation, and gave advice that looks quaint in retrospect:

If Mr. Dewey has any common-sense he will decline this appointment. In addition to the sacrifice of his private practice he will gain no glory, but only criticism. The fact is that the alleged vice rackets are largely the product of sensational newspapers. Everything now is described as a racket whether it is perfectly legitimate or not. District Attorney Dodge is a gentleman and a scholar. He has been crucified by the gutter press and the Fusion and Republican politicians.

On the same day, July 1, Dewey announced his acceptance of the post and one of the newspapers headlined him: 'The Young David is Sent in Against the Gang Goliath.'

He was still 'young Mr. Dewey' to the newspapers, and would probably remain 'young Mr. Dewey' as long as he lived. There might well be worse fates and worse epithets than 'always young.'

But nothing could have promised less success than the task imposed — one of the most difficult tasks ever handed to a lawyer.

A lifelong and ardent Republican, Dewey had been reluctantly designated by a Democratic Governor after a long delay. He had been appointed to the lowest rank in the office of a Democratic District Attorney who was a devoted member of the very Tammany Hall that Dewey was supposed to assail. What police he might have he must secure from a Fusion Mayor of no Republican sympathies. For his money he must look to a Democratic Board of Estimate whose members had scant interest in the investigation.

A still colder chill fell on him when he called for the victims of the criminals to come forward, and there was absolutely no response. Not one witness who knew about the workings of the rackets volunteered his aid. 'The business people feared the crooks more than they trusted the law,' said Dewey. 'They felt it safer to pay taxes to the criminals than to invite their revenge.'

The criminals laughed aloud. They called Dewey 'the Boy Scout.' They advised him to go back to his singing-school.



## Chapter VII • ORGANIZING THE BATTLE AGAINST CRIME

WITH us Americans, unpreparedness is a sacred institution. We brag of our invincible strength, and every war finds us hopelessly unready. So it is with our internal and native enemies, the criminals. Every war on crime finds us so ill-equipped and ill-trained that we usually give 'Three cheers for virtue!' and disband.

There have been numberless crime wars in America, and now and then a big power has been exposed and called ugly names. Once or twice a major political criminal has actually been dethroned and even punished, as Boss Tweed was, though he is so far back that he seems almost to belong with Benedict Arnold.

A true assault on criminal conditions with an important breaking-through the ranks to the higher-ups and the farther-backs awaited Thomas E. Dewey. Once he showed the way, his example and his methods spread, and successful wars on crime flared up all over the nation.

The least known and yet the most remarkable part of his achievements was the long, slow, quiet perfection of organization. He was the organizer of victory before he struck. He recruited, equipped, and officered his legal army, then trained it, rehearsed it and himself long before he ventured forth to battle. When he came out, he came with a swoop, brushed aside the scouts and pickets, flankers and patrols, advance parties, main bodies and reserves surrounding the citadels. He smashed on to headquarters before resistance could be consolidated.

The public was excited by his appointment and braced

itself for immediate sensation. Instead, Dewey announced that he would prefer to be forgotten for a while; he was going to disappear; there would be many rumors about what he was doing, but he would be too busy to deny or confirm them.

This was a novelty: a crusader who asked to be ignored and let alone! A lot of good it did him. Publicity, like love, flees the pursuer and pursues the fugitive.

But the first news that the young United States Attorney who demolished Waxey Gordon had been made Special Prosecutor awoke in the cynics and the experienced criminals only a mild interest, only such a stir as the first spring wind makes in dead leaves. It was rather one of bored melancholy than of alarm. There had been so many investigations!

The fourth of July, 1935, did not look like a new Independence Day. Yet, while the multitudes were making more or less noise, Dewey was closeted with Justice McCook in a four-hour council of war.

A special grand jury had been ordered for the Special Prosecutor. Dewey went to Washington to ask for and secure the promise of aid from investigating units of the Treasury Department.

#### WHO WILL GUARD THE GUARDS?

The old Romans knew where to look for corruption: they asked, 'Who will guard the guards?' The first caution Dewey took was to make a most careful investigation of every person on the jury panel. He spent three weeks at it. He made sure even of the court stenographer. He wanted to stop up every possible leak. Secrecy with Dewey meant secrecy — hermetic secrecy.

Opposition to him and to the whole investigation had not yet died down, and never did. The so-called Property Owners' Protective League protested to Governor Lehman that it was all a conspiracy against taxpayers' money. The President of Bronx Borough, James J. Lyons, declared that his borough was pure beyond reproach, and the investigation was a waste of time and public funds. On July 13 a suit was

filed to stop it on a legal technicality. Justice Schmuck issued an order for the city to show cause why it should not be enjoined from appropriating any moneys for the investigation. The moving spirit was a lawyer, Henry H. Klein, who had run independently for Mayor in 1933. Mr. Klein made the astonishing allegation that the probe was a mere 'dodge to protect rackets and gangs.' Dewey's only reported comment was one word, 'Rubbish.' The injunction was denied July 17, but Klein kept bobbing up with renewals of his opposition and his lawsuits for months and months.

Mayor La Guardia publicly wrung Dewey's hand and urged that the special investigation be made a permanent bureau for the suppression of organized crime. Governor Lehman also wished Dewey well and called for racket victims to come forward and furnish evidence of crime. They turned up missing with absolute unanimity. One hundred per cent of them stayed away.

But applicants for positions on Dewey's staff were not lacking. He received two hundred telephone calls daily: six thousand persons asked for jobs. His selections began to appear, young men whose names would soon be everywhere: William B. Herlands, Murray I. Gurfein, Barent Ten Eyck, Paul E. Lockwood, Sewell T. Tyng.

Among Dewey's first concerns was to secure the services of his former collaborator, A. J. Gutreich, the expert accountant. Attorney Frank S. Hogan became one of his leading aides. To help him in probing the Harlem numbers game Dewey added a Negro lawyer to his staff, a woman, Mrs. Eunice H. Carter. He persuaded two men of social prominence to accept salaries of a dollar a year. He selected Deputy Police Inspector John A. Lyons to head the police end of the racket investigation, and recruit a special squad of hand-picked detectives. Lyons had co-operated in many cases with Dewey while he was in the Federal Government. Dewey also acquired the invaluable aid of Captain Bernard A. Dowd and of Sergeant William J. Grafenecker, who had done masterly work on the Lindbergh kidnaping case and had arrested Bruno Hauptman.

The press of the whole nation was turning its eyes on

Dewey. His photograph was published everywhere. Cartoons abounded, more or less humorously showing him confronting the all-devouring Tammany tiger and the distracted Father Knickerbocker.

The Police Commissioner, Lewis J. Valentine, had pledged his complete support to the investigation, and on July 15, 1935, ordered a grand census of the crooked. All the known criminals in the city were listed. Commissioner Valentine's biography, recently published under the title, *Honest Cop*, tells how he worked his way up through the police force from patrolman to deputy chief inspector only to be reduced to a captaincy and sent into virtual exile by Tammany when he warred on gamblers supposed to be protected. Then Fusion defeated Tammany in 1933, La Guardia became Mayor, and Valentine was made Chief Inspector under a new Commissioner of Police, General John F. O'Ryan. After a disagreement with Mayor La Guardia, General O'Ryan resigned and Valentine was given his place in 1934. As Commissioner he welcomed Dewey with enthusiasm.

On July 29, 1935, at the County Court House, Dewey was sworn in as Special Prosecutor by Supreme Court Justice Philip McCook, who also swore in the staff.

One of Dewey's first steps was to call the newspapermen and publishers into separate conference. Some came with sophisticated smiles, expecting a more or less clever appeal for publicity. Instead, Dewey made only one request, the only favor he ever asked a newspaper: 'Please forget me and my office. Don't embarrass or endanger witnesses whose names may be learned, and please don't publicize prospective investigations.'

They pledged their co-operation for a year. And, in general, kept the pledge.

From the panel of fifty veniremen Dewey accepted and rejected until he had his special grand jury of twenty-three. He said of them: 'I have never seen a finer group of men.' They stood by him faithfully through long days and nights for months, at great sacrifice to their business and their pleasure, and no personal profit or glory except the comfort of their civic consciences.

Office space was offered to Dewey in various public buildings. But they might be open sieves for secrets. Other prosecutors had been unable to move without publicity. So Dewey took space, 10,500 square feet of it, on the fourteenth floor of the skyscraping Woolworth Office Building. Here there were innumerable entrances and exits, passenger and freight elevators — too many for the spies of the racketeers to cover completely, and such throngs rushing to and fro that it was all but impossible to spot individuals. A twenty-four-hour guard of police was posted in the building.

#### THE FOURTEENTH FLOOR OF THE WOOLWORTH BUILDING

In the offices there was every device for concealment of witnesses. There were Venetian blinds on the windows, frosted glass in the partitions of the numerous waiting rooms. A telephone cable that could not be tapped was connected directly with the main office of the telephone company. All stenographic work was done in one large room under inspection. Special locks replaced the standard variety on the filing cabinets. Every device experience had found desirable was installed.

And now Dewey made an eloquent appeal to the great public he had come to serve. He spoke on the radio over three stations on his second evening in office. The conditions confronting him and his ideas of the attack to be made on them could not be more briefly or vividly or vigorously stated than in his own phrases:

‘This is the first, and, I hope, the last time I shall make a public address during the course of this criminal investigation. A talking prosecutor is not a working prosecutor: a promising prosecutor rarely performs....

‘Your businesses, your safety, and your daily lives are affected by criminal conditions in this city. I believe you are entitled to know how this investigation will affect you, and what part you, as citizens, are expected to take in it.... This has, from time to time, been miscalled a “vice” investigation. If this were merely an attempt to suppress ordinary

prostitution, gambling, and lottery games, I think I am safe in saying the Governor would not have ordered it and I know I would not have undertaken it. The ordinary prostitution, lottery, and gambling cases are routine in character and the present facilities for handling them should be quite adequate.

'This investigation will deal with vice only where it exists in an organized form. We are concerned with those predatory vultures who traffic on a wholesale scale in the bodies of women and mere girls for profit. We are concerned with professional criminals who run large, crooked gambling places and lotteries at the expense of the public. . . . Any criminal operation which pours money into the coffers of organized crime is a continuing menace to the safety of the community. . . .

'There is today scarcely a business in New York which does not somehow pay its tribute to the underworld — a tribute levied by force and collected by fear. There is certainly not a family in the City of New York which does not pay its share of tribute to the underworld every day it lives and with every meal it eats. This huge unofficial sales tax is collected from the ultimate consumer in the price he pays for everything he buys. Every barrel of flour consumed in New York City pays its toll to racketeers, which goes right into the price of every loaf of bread. Every chicken shipped into the City of New York pays its tribute to the poultry racket, out of the pockets of the public. There are few vegetable or fish markets in the City of New York where merchants are not forced by sluggings, destruction of goods, threats, and stink bombs to pay heavy toll.

'In some industries in New York, organized crime has actually been invited by certain groups of business men, to "organize," as they call it, the industry: sometimes the racketeers force it on the industry. . . . Here is racketeering in its most effective disguise and its most modern form. The association is set up as a corporation with a constitution, by-laws, and full legal window-dressing. It is announced that the association will save the industry from trade abuses, and gather information for legitimate trade purposes. On

the side it is hinted that the association will protect members from labor-union troubles.

'If a business man does not join promptly, his windows are broken and his employees are assaulted. Stink bombs ruin his goods and drive away his customers. If he surrenders and joins the association, as he almost always does, from then on he pays and pays.

'The criminal underworld plays no favorites. Organized labor has been one of its most recent and most tragic victims. Some originally honest and sound labor unions have been slowly but surely infected with the virus of organized crime. Today, certain corrupted leaders operate as extortionists both upon industry and the members of their own unions. Just as surely as public office is a public trust, so labor leadership is a public trust.'

Having described the intolerable degradation he had been called in to destroy, he made his appeal for help and added guaranties too good for the downtrodden to believe:

'I want to say to labor-union members who have been betrayed, that you can save yourselves. . . . If you will come to my offices in the Woolworth Building you will be seen by a responsible member of my staff. He will welcome your help. He will respect your confidence. He will protect you. You will not read your testimony in the newspapers, nor will the heads of your union learn you have been in the office.

'To the wholesale food merchants, the restaurant owners, the racketeer trade association victims and the other business men of New York I want to say this: in my opinion you can be freed from organized racketeering in this city. Those of you who have knowledge of criminal conditions owe it to yourselves and the people of this city to give this investigation your co-operation. It is not only your privilege but your duty to bring that information to my office. . . . A prosecutor's strongest weapon is complete secrecy and the protection of his witnesses. I will use that weapon to the fullest measure.'

Next, he uttered the almost unbelievable word that this was not a political job. Everything had been poisoned by politics and the more jaded public assumed that Dewey was

simply another partisan trying to undercut the opposing party. But he explained how many different parties had taken part in authorizing his work, and made his pledge.

'I am choosing my staff without regard to party and there will be no politics in this investigation so long as I conduct it.'

### 'PUBLICITY DOES NOT STAMP OUT CRIME'

After this refreshing clearing of the air, he put the damper on optimism:

'I do not expect immediate results in this investigation. The Capone case in Chicago took three years of day and night work by several Assistant United States Attorneys and a dozen agents of the Intelligence Unit of the Treasury Department of the United States. The Waxey Gordon and Dutch Schultz investigations took three years each. . . . However minor the crime may be, we will prosecute it if it is a part of organized crime. . . .

'Crime cannot be investigated under a spotlight. Publicity does not stamp out crime. It is my sincere hope that the work we are doing will vanish from the newspapers until it produces criminal cases to be tried in court. You will doubtless hear rumors as to what and whom we are investigating. I ask you to ignore them. I will neither confirm nor deny rumors. . . .

'Your co-operation is essential. Your confidence will be respected. Your help will be kept secret and your persons protected. If you have evidence of organized crime of whatever kind and however large or small, bring it to us. The rest is our job. We will do our best.'

This clear call of warning and of encouragement aroused new hope in the city and in the nation that always watches New York, since it is in so many ways the brain and heart and pulse of the United States. But Dewey's appeal for help, the promise of protection, the plea to the victims to come forward and testify in secret had a most unexpected, a perversely dramatic response. Not one human being came forward, except crackpots, cranks, and people with com-



plaints outside Dewey's jurisdiction or authority. Except for Benny Gottesman, an officer in a waiters' union, about whom there will be more later, not one victim came forward — not one witness.

Yet Dewey did not indulge in denunciations. He went out and brought in the witnesses by subpoena. He conscripted the sufferers. Some of them were so recalcitrant that he had to prosecute the victims before he could reach the racketeers.

In his new office Dewey detailed a squad from his staff to do nothing but study the criminal laws, which had been gradually narrowed down by precedents till it was all but impossible to convict a top man of any crime, no matter how vicious it was. He got the finest scholars he could find at the bar to bring out the possibility of introducing important evidence against criminals in ways that had previously been closed off by the immense ingenuity of criminal lawyers, and incompetent or indolent prosecutors all too often in league with crime.

#### THE BOY WHO THREW STONES

And then, instead of justifying the enthusiasm his appointment had awakened, Dewey's first arrest evoked a howl of contemptuous laughter.

He seized a nineteen-year-old boy for breaking windows!

This lad — his name was Dominick Tossoni — had a little habit of throwing stones through plate glass and then offering to protect the shopkeepers for a price. The gangsterino was watched when he extorted thirty dollars in marked money; then arrested. He confessed.

There was a tornado of public laughter over the ridiculous mouse the mountain had produced with such labor. Dewey said not a word in self-defense. Complaint had been made of the window-racketeerlet and Dewey gathered him up in his stride. He had promised to punish minor offenses as well as grave ones.

Worse than the shriek of laughter was an ominous muttering of wrath; for it began to look as if Dewey were going to

attack union labor. He was accused of being a hater of the unions, a labor-baiter. The charge was false, but it might be fatal.

He had declared open war on the racketeers who were turning some of the unions into instruments of corruption, intimidation of laborers. In that opening radio appeal of his for help he had proclaimed his liberalism toward labor along with his abhorrence of crooked labor:

‘No intelligent man, whether he be employer or employee, can fail to support enthusiastically the cause of organized labor. Neither business nor labor can prosper unless business is fair to organized labor; and labor, by collective bargaining, can enforce its demands for decent living conditions and a fair wage. It would indeed be a calamity if a few gangs of thugs, masquerading as labor-union delegates, should discredit the cause of organized labor in this country....

‘Unless they are purged, labor unions which have been thus taken over by criminals will, just as certainly as night follows day, wreck the cause of organized labor in this country and set back its progress many years.

‘The president of one labor union in New York County was murdered last fall in the presence of twenty-two witnesses, consisting of employers and members of his own union. The terrorism in that union was such that when the witnesses were examined, all twenty-two of them claimed that they did not see the murderer and could not identify him. The murderer has not been brought to justice, a new leader has been elected, and the union carries on.

‘In one case, in which I participated in the federal courts, against an important leader in the building trades, it was proved that he had called strike after strike solely for the purpose of extorting large sums of money from builders as the price of completion of their buildings. There was never the slightest improvement in the wages paid to the workmen or in any working conditions on the job when the men went back to work after the pay-off to this leader. The members of his union starved in vain on the streets during his shake-down strikes. Those members of his union who dared to oppose him — and they numbered about five hundred —

received prompt discipline. They were kept out of work for years and were assaulted if they opened their mouths at meetings.

'William Green, President of the American Federation of Labor, recently said: "We are against racketeering within our organizations. I will co-operate with any effort to eliminate racketeering in unions under our jurisdiction, no matter where it strikes."

'I wholeheartedly accept Mr. Green's statement and will rely upon his co-operation. . . . I am convinced that it is possible to rid both business and labor of racketeers.'

His welcome to the victims of labor oppressors had fallen on ears as deaf as those of the victims of other criminals. He had only turned upon himself the savagery of racketeering labor bosses and their public defenders.

#### DUTCH SCHULTZ SITS IN A NEWARK SALOON

About this time, the gangster of gangsters, Dutch Schultz, was acquitted of income-tax violation charges by a jury in Malone, New York, where he and his crowd had established headquarters and spent money lavishly enough to endear them to the local populace.

Mayor La Guardia warned Dutch Schultz to keep out of New York City, but the big gangster sent him insolent word: 'I'll be back in town tomorrow.'

He did not keep his promise. Somebody else got him first.

On September 26 he was arrested by the police of Newark, New Jersey, and released on bail. But on October 23, while he was sitting in a Newark saloon going over his accounts, three men entered and riddled him and two of his aides with gunfire. The two aides were instantly killed. Almost at the same moment two others were seriously wounded, in a New York barber shop.

Horribly delirious, but refusing to name his destroyers, Schultz poured out curses on the Unione Siciliano and the gangster known as 'Lucky Luciano.' Then he reaffirmed his early piety, embraced the Catholic faith, and died like a frightened child, sobbing, 'Mamma, mamma, mamma!'

Even then the man at his bedside was one of Dewey's detectives who had been trying to fetch Dutch across the river to Manhattan. He crossed the river Jordan instead.

On the day of the funeral there was further slaughter and in the next five days five racketeers were killed and five wounded.

If there was regret in Dewey's heart for the passing of this remarkable pirate, there was vast relief in the hearts of a number of criminals who lacked Dutch Schultz's misguided courage. But Dewey would not let even death shake off his clutches and the dead Dutch Schultz was kept in constant resurrection for the punishment of higher-ups who had shared his guilt, if not his fearlessness.

Meanwhile, in an amazing secrecy Dewey and his staff had been breaking all known records in thoroughness. They had actually brought three thousand witnesses into the mazes of the Woolworth Building and questioned them. Victor H. Bernstein pictured the scene in the *New York Times* of September 15, 1935:

Witnesses melt into any of a dozen doors, pour out their stories to men sworn to secrecy and are whisked away unseen through back elevators. The practically empty corridors belie the activities carried on in the small rooms on either hand. Only the presence of a policeman on duty twenty-four hours a day, and the fact that lights frequently burn during holidays and late into the night indicate that the place is not what it seems: a corner of an office building occupied by not-too-busy tenants.

The first stubborn witness to feel that Dewey was even more dangerous than the racketeers was David Wolper, president of the Royal Painting and Decorating Company and the Whiz Electric Company. He refused to produce the records Dewey needed to prove that subcontractors were demanding kick-backs in money from all the workers they hired on jobs for general contractors. Mr. Wolper protested that his books would incriminate him. Justice McCook ruled that they were corporation records and must be produced. He offered Wolper the alternative of producing them or going to jail. He produced them.

The next stubborn witness went to jail for fifteen days. This was Philip Grossel, secretary of the Metropolitan Restaurant and Cafeteria Owners' Association, which was to bulk large in the scandals connected with feeding the public. Grossel gained nothing by serving his time; for, as he walked out of the Tombs prison, he was met with another subpoena.

These were perilous and anxious days for Dewey. People were shouting at him to do something. Only in the dark circles of crime was it suspected how busy he and his little army were. He has always been careless of danger, too intent on his work to take peril into consideration; but his staff had learned that the mobs had offered a reward of twenty-five thousand dollars to anybody who would murder him. Assassination was a part of the day's work and they knew what a bargain it would be to get rid of this inconvenient and inquisitive conspirator against their power. So Dewey consented to have a bodyguard.

When Dewey told the public that he was about to vanish from sight, the warning included his wife. There are stories that at this time she grew jealous of his devotion to the ungrateful public. Loving him as she did, she could hardly rejoice in his virtual disappearance from her life. But if she were cross about it, her mood was soon explained. On October 18, 1935, she bore him a second son, John Martin. He and his three-year-old elder brother did their best to keep their mother from having nothing else to do but wait and wonder if their father would come home alive, if at all. At the moment there was little time he could spare her from preparations for his first great coup.

And now once more the unpredictable Dewey surprised everybody. The first fruits of his complex inquiries were criminals in a field no one had suspected him of even investigating. In a sudden swoop, twenty-two loan sharks were arrested. They were held on 252 counts on 126 indictments. Lawyers swarmed to their defense, but they could not beat down Dewey's demand of bail totaling \$174,500. He issued a warning that if reprisals were attempted against his witnesses, he would see that the offenders were sentenced to prison for life.

The newspapers were filled with photographs of 'Shylocks' going to court, their hats over their faces to conceal them from the cameras. But those faces had been plain enough to the pitiful hordes of poor people who had been bled with usury and terrorized in every imaginable way. This was the first time in the history of American criminal prosecution that a widespread organized mob was attacked on so broad a scale.

### THE LOAN SHARKS

It is worth noting that in the very first of his campaigns, Dewey came to the rescue of the people who needed him most desperately, the wretched victims of pitiless usurers. The *New York Times* on November 3, 1935, gave a vivid picture of it:

Bred to the hare-and-hounds tradition of racketeer investigation, New York was puzzled until last Monday by the silent procedure of Thomas E. Dewey, who undertook last July the gigantic job of ridding the community of organized crime.

On Monday, fifteen squads of policemen, acting on information obtained by a handful of the Special Prosecutor's unidentified operators, invaded pool rooms, office buildings, public parks, and other places infested with 'Shylocks' and made twenty-two arrests.

Thousands of poverty-ridden clerks, taxi chauffeurs, office boys, and men and women on home relief hailed the stroke with fervent joy. Many had suffered beatings and lived in terror after ominous threats. Shabby, broken-spirited men approached the Shylocks' rat holes with money scraped up at great sacrifice of pride and honor on the day of the raids and could not believe their ears when detectives met them and told them: 'Stick the money in your pocket; your Shylock's in jail.' Dewey is a savior and hero to thousands.

The very poor were not the only sufferers. One person out of every thirty in New York was in the clutches of the loan sharks.

Tammany Hall had always protested its love of the poor and downtrodden, each of whom had, of course, as many votes as the much fewer people of means. But the powers that misruled New York had not merely been deaf to the

cries for help from the bloodsuckers; some of them had actively connived at the extortions and shared the blood money. Desperate wretches, haggard old women, in terror not only of starvation but of brutal treatment, had often run to the regular District Attorney's offices only to be turned away.

When, two years later, Dewey was urged to become District Attorney himself, he spoke of this in the course of his campaign:

'The loan sharks had one of the most vicious rackets that ever plundered our city. They got fat on the profits they took from people who were hard up, who needed money to pay for doctors, for groceries, for rent. Usually the loan shark would lend five dollars and demand six dollars back the next week. If the borrowers were not able to pay at the end of the week, they soon learned they had let themselves in for a much bigger debt, which kept getting bigger and bigger.

'The loan sharks organized their racket into a big business. The Russell Sage Foundation found the business was a million dollars a week. The gangsters broke heads and cut men with knives and made their victims lose their jobs. Thousands of people were caught in their net.

'I remember a letter carrier, a fine man, whose wife was having a baby. He borrowed fifty dollars from a loan shark because he didn't have enough money. He paid back five dollars a week for twenty weeks — a total of one hundred dollars — and then he still owed the loan shark seventy-five dollars more. I could tell you a hundred other cases just as bad.'

It was the gangsters who suffered now. At first, even before the victims were taken to the grand jury room, they almost uniformly denied that they had borrowed, that they had been threatened. They had to be calmed mentally and physically, their confidence built up.

When at last the victim would break down and tell the pitiful story, he or she would be asked to pick out the particular loan shark, but would invariably refuse. Then Dewey's aides took men and women to the detention pen where the loan sharks were herded together awaiting arraignment.

The victim would peer through a peephole at the sullen defendants, and finally, after a fierce mental struggle, would say — 'That's him! The third man from the left in the second row!' They would weep with relief at seeing their tormentors and persecutors in the hands of the law.

The testimony was harrowing. The sums extorted were appalling. A beauty parlor operator had borrowed \$100 in 1934 and agreed to pay \$5 a week interest — a small matter of 260 per cent a year. She had to borrow another \$100 and gave a note for that amount, receiving only \$75 in cash. After she had paid \$550 and could still not square the deal, her persecutors threatened to cut her hands off, to cut her ears off, to slice her throat to ribbons. And at last they dispossessed her of her little shop after all.

There is sardonic farce in the political aid given to one loan shark who actually used policemen as collectors. He had no less than twenty-five hundred clients in Radio City. He told the police that his life was threatened and a body-guard was assigned to him. By the use of this ruse he was able to approach his victims and tell them, 'See, the police are working for me.'

The stories were all but unbelievable in a nation pretending to civilization. Day after day Dewey's staff won convictions until, on December 3, he had convicted twenty-two of the twenty-two. On December 5 he arrested five more, all of whom pleaded guilty. He convicted thirty-six before he stopped. The penalties ranged from terms in the workhouse to five years in state prison.

#### AN OVERWORKED GRAND JURY

The coddling and cajoling of spirit-broken witnesses against the loan sharks was in sharp contrast with the severer measures against others who were losing their blood to leeches of other rackets.

'It is an appalling condition when, in order to procure the testimony of citizens against criminals, it should first be necessary to make criminal cases against these citizens in order to compel them to do their obvious duty.'



These were the words of the first special grand jury that worked with Dewey. It was doing a major service in forcing or scaring citizens out of a state of cowardice and slavery that one blushes to think of in America. The crimes of the gangsters seem almost palliated by the victims who invited their own ruin by their own submissiveness.

Following the temporary wiping-out of the loan-shark racket, this grand jury asked Justice McCook to relieve it of duty, pleading:

'We have averaged more than three hours per day for four months, and on some days sat five and six hours. On one occasion we sat thirteen consecutive hours, from 2 P.M. to 3 A.M. Naturally the burden of the work has interfered seriously with the conduct of our private business affairs, and we trust that the new grand jury can soon be empaneled. . . . We have ourselves heard the testimony of more than five hundred witnesses and we understand that several thousand additional witnesses have been examined in the office of Mr. Dewey.

'The loan-shark racket has, of course, consumed only a very small percentage of the time of this grand jury. We have heard testimony in more than eighty different cases, involving many different rackets.

'We have been shocked by the reluctance of some business men, who are victims of these racketeers, to give testimony. These witnesses have often continuously evaded questions and denied knowledge, but finally admitted that they first testified falsely and have given truthful testimony. Such witnesses have been protected and their identity kept secret. . . .

'We wish to congratulate Mr. Dewey and his very able staff on the excellent progress they have thus far made against the greatest of obstacles. We have also been impressed with the excellent detective work performed by Acting Deputy Chief Inspector John A. Lyons and the staff of police detectives working under him.

'Despite all this, much remains to be done. In our opinion it will take two grand juries working simultaneously two or more years to complete the work.'

Having thrown thirty-six big loan sharks out of business, Dewey went back into the silences. Three-quarters of his staff were working day and night on investigations that only reached the public eye after arrests when the cases were completed, months and in some instances years later. Meanwhile, the public waited. He did not disappoint them when he rose to the surface again. But he was almost as surprised as they were by what he brought forth. He and they had expected him to attack the big business rackets. He was not quite ready for those, so he startled the nation by his exposure of the recently organized trust the racketeers had made of the oldest profession in the world, prostitution. He brought up from the depths — or rather brought down from the heights of his dark tower of luxury — the strange and morbid, medieval figure of 'Lucky' Luciano.

## Chapter VIII · 'CHARLIE'

'FEARFULLY and in a voice so soft that it was barely possible to hear her, Dorothy —, alias Dixie —, alias Dixie —, a pale diminutive blonde from Virginia told the court...'

'From the crimson lips of prostitutes and madams there poured an almost incredible story of two thousand young women shifted about among two hundred houses in this metropolis where they earned a total of \$35,000 a night, only a fraction of which they were permitted to keep after the ring extracted its many fees and charges.'

'Thomas E. Dewey told how the racketeer — who had spent \$100,000 fighting extradition — never saw any of the minor vice employees, but kept in touch with the business from a luxurious suite in the Waldorf-Astoria hotel, from which he supervised half a dozen other rackets....'

'Trembling, frightened, the son of cock-eyed Louis Weiner, a rising young merchant in human flesh, who learned the business at his father's knee, exposed the operations of New York's \$12,000,000 a year vice racketeer... who stared at him with hooded cobra eyes.'

These witnesses and the defendants were hardly more reluctant to be there in court than was the Special Prosecutor himself.

Dewey had been empowered to attack vice, but had protested that he 'had not left private practice in order to chase prostitutes.' Yet no clean-up of New York could be effective if the sewers were neglected, especially now that the sewer rats had been organized. What interested him most, how-

ever, was that he had before him one more organization of criminals to wreck.

It was a woman, a colored woman, who sent Dewey into the sewer — Mrs. Eunice H. Carter, a member of his staff. She had previously served on the Mayor's committee to investigate riots that had raged in Harlem, and had felt that they were at least partly due to bad housing conditions; she had been active in writing and securing the passage in Albany of several bills to reform the evils.

In the course of her investigations she encountered various prostitutes who told her that their primordial industry had been mysteriously collected under one government; but its upper officers were unknown and shrouded in an awful secrecy.

Mrs. Carter interested one of Dewey's chief aides, Murray I. Gurfein, in the new development. They went together to persuade Dewey that here was a racket aching for his attention. He hated to touch the filth, but authorized Gurfein and Mrs. Carter to go on with their investigation. Only four detectives could be spared as scouts to observe the women, the system, and the courts that handled the night-workers. But they soon discovered prostitution's swift new evolution from the primitive simplicities to a modern trust. In the good old days a woman had peddled herself along the streets, or made one of a hive whose queen bee was called a madam, or its equivalent in every language. Various forms of propaganda were employed, from cabdrivers, barkeepers, telephone centrals, and messenger boys to personal representatives, or drones, technically known as pimps.

#### 'THE BOOKER'

Circulation and distribution being the life of any trade, it was found good business to make frequent changes in the personnel of the houses. The trade of the 'booker' developed. He collected female clients and provided madams with girls and girls with madams. Since New York City does not authorize prostitution, its practitioners are liable to arrest. Arrest interferes with office hours and jail life is dreary, so the

bail-bond became a useful commodity. Also, since it is good business to advertise the sanitary condition of any package, the girls found it advisable to have a weekly certificate of health from a licensed physician. For five dollars a doctor of a sort would issue such a certificate without prying too deeply into the facts.

The total amount of money spent by customers added to the sums paid in fines and in bail and bribes of various sorts would make the Comstock Lode a minor treasure. Dozens of other industries had been racketeered, but it had been supposed that harlotry had been neglected, until the news of peculiar doings reached Mrs. Carter on Dewey's staff.

Until 1933 there had been many bookers doing a business whose profits depended on their energy and acquaintance. A booker acting as an agent for two hundred girls would route them through a group of houses. It had been found stimulating to regular patronage if a madam offered a new family of entertainers every week; and so the girls moved from house to house with something of the comfortable regularity and security of vaudeville artists touring the circuits of the nation.

In the prostitution trade the booker charged his client ten per cent of her net earnings. The gross — and a very gross gross it was — might easily run to two hundred dollars a week. Of this the girl gave the madam half, plus perhaps twenty dollars for room and board; the booker took ten dollars; her doctor took five dollars. She had left about sixty-five dollars, with which she could buy clothes, support a mother, a child, or a pimp — or just spend it foolishly.

Suddenly the bookers were thrown into a panic. Stealthy gangsters informed them that they had better seek other means of livelihood — 'or else.' Those two little words 'or else' had come to mean beating, slashing, kidnaping, torture, and even death.

All the bookers were soon reduced to four official bookers. And they paid tribute and rendered obedience to three men known as Joe Levine the strong arm, Benny Spiller the Shylock, and Ralph Liguori the Stickup. Above these was a general manager, Jimmy Frederico, sometimes known as

Fredericks. Above him were Tommy, or 'Bull,' Pennochio, and Abie Wahrman. Above them was a director general, 'Little Davie' Betillo. In the lower ranks were also bondsmen, telephone men, two lawyers, collectors, and others totaling about twenty-five. This kakistocracy was now in absolute control of prostitution in New York. There was, of course, a certain amount of bootlegging or illegal illegality; but it was unauthorized and dangerous, and the police of the racket were swift and deadly.

### THE POWERFUL UNKNOWN

This much Dewey learned. Yet there was a vague feeling that there was a still higher power above Little Davie. But his name was unknown and not mentioned. He just was.

At first, the four official bookers had found their pickings enormous, and cheated a little. But bookkeeping was strict and inspection minute. They were reviled and threatened and finally reduced to the petty salary of fifty dollars a week. This was practical starvation for men used to a few luxuries, but when one of the bookers fell ill and was so sore put to it to provide medicine for his sick daughter that he decided to resign, his resignation was rejected. His wife, for one, knew the Great Unknown, and appealed to him direct to release her husband. Her prayer was refused with ominous scorn. He even spat in her face. A woman scorned.

Once the bookers were reduced to order, the madams were regulated. They were told that they could not book except through the booker assigned to them. And they had to collect ten dollars in cash every week as bonding-fee from every girl in the house. Some of them rebelled, but not for long.

The exact total was never learned, but it was proved that the combination controlled at least three hundred madams and two thousand girls. The houses were like chain stores and the girls went round and round the merry-go-round.

Each girl had to pay ten dollars a week as bonding-fee. She was arrested occasionally, of course, for the moral element must always be convinced that the city government is

'repressing vice' — or at least punishing somebody. When a girl was taken to prison, a bondsman put up bail for her in amounts ranging from a hundred and fifty to five hundred dollars. She was taken to a lawyer, often assisted by Abraham Karp, who had been disbarred because of the Seabury exposures. He or one of his staff coached the girl in a good story to tell the judge, such as that she lived in Philadelphia and was just calling on a friend when arrested by a wicked cop. If the case were too strong to make such a plea plausible, she was told to forfeit bail and vanish — technically 'take it on the lam,' or become a 'lamster,' till further notice. Otherwise, the judge was usually lenient, the girl was released, and her bail-bond restored, the combination keeping her contribution, of course.

Dewey's investigators took one year's records from the magistrates' courts for a sample test. They were able to unearth the experiences of a hundred and seventy-five girls bonded by the combination; not one had been sentenced to prison. Sometimes the police testimony was strangely weak; sometimes the prosecuting lawyer would take a tip for putting up so weak a case that the judge had to release the girl. One prosecutor had confessed to the Seabury Committee. Sometimes the case was strong, but the magistrate was weak.

Loan sharks preyed on the girls, of course, and dealers in shoddy finery sold them pitiful ball-gowns at exorbitant prices. The combination supervised these men and licensed the doctors, too.

Girls wear out soon in that trade, and when they grew diseased beyond concealment or too sick to work, they were thrown out without a qualm, and dumped on the public charities and county hospitals. New girls were brought in to supply their places. The savagery with which the women were treated when they were obedient foreshadowed the mercy they could expect if they rebelled.

Dewey's staff went on grimly heaping up evidence secured by every device of modern investigation. But the one called 'the Boss' could never be identified or found.

The stench and horror finally piled up so that Dewey resolved to put an end to the racket and the huge profits

that poured into the coffers of these organized criminals. He made everything as ready as he could, laid out his plan of attack, and launched a raid that broke over New York like one of those sudden thunderstorms that mass behind the skyscrapers, then bombard the town with rain and lightning.

#### NEVER SUCH A RAID AS THIS

His raid on the loan sharks had startled New York, but never in the history of police raids had there been such a raid as this. It was really two raids.

First, Dewey engaged all available space on the thirteenth floor of the Woolworth Building and made it ready for lodging and feeding a swarm of guests. Then he told his staff of lawyers and others to cancel any week-end engagements they might have made.

The first half of the raid was so quiet that it was almost occult. He had his detectives find and shadow the twenty-five men who headed the racket. As one detective put it, 'We tailed the gorillas for thirty-six hours before we closed in.' When the last midnight of January, 1936, had struck, the ghostly escorts of the twenty-five leaders began to gather them up so that they could give no alarm.

The racketeers just quietly vanished and did not keep their engagements the next day. Little Davie Betillo, Tommy Bull Pennochio, and Benny Spiller were passing a pleasant evening in Jimmy Frederico's flat. When they bade him good night they walked into the arms of Dewey's men, who then went up and collected the host. Twenty-four were so delicately extracted from their surroundings that nobody missed them. One was in Philadelphia, but he was as quietly removed from there. Karp the lawyer was pulled out from behind a piano. Others were taken in their apartments, or just coming out of restaurants. One stopped his car for a red light and was taken to the green light in front of Greenwich Street Police Station.

When the detectives carried off Jack Eller, the booker, two detectives remained in his office to carry on his business. They found a card index of madams and touring girls and



when the regular calls were made, they sent the girls to houses that were to be 'knocked over' in the second raid. None of the girls or madams suspected that their bookers were now in jail.

The police force of New York had long been the leakiest of sieves. So Dewey kept his name out of it. High police officials collected all the plain-clothes men available, one hundred and fifty in number. They were grouped in pairs, and at eight o'clock each couple was given a sealed envelope carrying the address of an apartment house. Inside were instructions not to be looked at until 8.55.

### '19 BARCLAY STREET'

The instructions were specific. In each case a certain apartment was to be surrounded and raided, and all inmates, except patrons, hurried just as they were to '19 Barclay Street.' To the surprise of the detectives and the women, this turned out to be the freight entrance to the Woolworth Building.

All night long the Woolworth freight elevators carried to the thirteenth floor a throng of madams and prostitutes of every age, costume, and mood. They and their captors marched in line past Mrs. Eunice Carter's desk and each girl was registered with a notation as to the address from which she came and the name of the arresting officer. Many of the girls were in working uniform or in flimsy ball-gowns. Their garb told the truth, even if the girls would not. They were made as comfortable as possible, offered coffee and sandwiches, and assured that they were witnesses, not defendants. Each of them was interviewed by Dewey's staff. But none of them would give any help.

Their very names were wonderful; for here, besides the usual Roses, Maudes, Fannies, and Thelmas, were Gashouse Lil, Frisco Jean, Nigger Ruth, Polack Frances, Silver-tongued Elsie, Sadie the Chink, and best of all, Jennie the Factory. Cokey Flo had a quaint name, too; but she had not yet appeared. The most brazen of them mocked their captors, 'You've got us, but you haven't got the gorillas.'

So the guardians showed the gorillas to the girls, and the girls to the gorillas.

The better the day the better the deed. Late Sunday afternoon Judge McCook opened court in the Woolworth Building and set the bail for each of the girls and madams, not at a hundred dollars or so, but at ten thousand dollars apiece. It was the highest compliment any of them had ever had, but it threw the bail-bondsmen into shivers of helplessness. To adjourn that convention would have meant the laying-down of a million dollars in cash. In any case, the two principal bondsmen were already locked up.

After the girls were arraigned, they were made as comfortable as possible in the House of Detention. While they were being questioned, the members of the combination were also under inquisition. After a long night of conversation with Dewey's staff, the booker Dave Marcus, whose wife had been arrested with him, finally offered to exchange information for his wife's liberty. It hurt him to have her on trial for prostitution.

The assistant assured him that Mrs. Marcus could secure immunity by frankness, and that Dave could secure consideration. So Marcus told of his vain efforts to get a living out of the booking game. He told of his heart disease, and of the rough treatment given to his wife and himself, of bullets that riddled his car, of his journey to California, where he was such a failure as an operator of a filling station that he had to come back and resume the only trade he knew. He had made peace with Frederico, who had promised to save him from being sent to the penitentiary to join Nick Montana and Cock-eyed Louis. Marcus said that Frederico had named as guarantees 'Davie, Abie, and Charlie.'

Charlie!

That was the forbidden name. It startled the assistant. It startled Marcus as he heard his own voice utter it. But he could not call it back. His bad heart brought him almost to collapse and he was sent to a hospital instead of to a cell.

That name 'Charlie' explained everything. Since Al Capone had been dethroned and jailed and Dutch Schultz killed, Charlie was Public Enemy Number One; so great a

man in his field that Dewey had never suspected him of dabbling in a minor industry like prostitution. His record was horrible, his conviction believed impossible. He had paid his income tax and had closed off that way of getting criminals. Now, perhaps, his smallest racket might be the means of ruining them all.

The Government used the income tax in a way never intended. Yet it was the one and only weapon available for the suppression of criminals whom the states and cities were too degraded to punish. Dewey himself had broken Waxey Gordon's empire and had cracked other rackets with it. But Dewey did not need it now. With laws that were available to all defenders of the public, he renewed the trust in the laws and the use of them, and encouraged other prosecutors in other parts of the nation to wield them.

He had already made one innovation in tactics. He had secured the passage of a new bill, since known as the Dewey Law, though it was merely the acceptance by the state of a device long used in the federal courts, where Dewey had passed his apprenticeship in criminal practice.

In urging the adoption by the state of the federal custom, Dewey had said:

'Today crime is syndicated and organized. A new type of criminal exists who leaves to his hirelings and front-men the actual offenses and rarely commits an overt act himself. The only way in which the major criminal can be punished is by connecting to him those various layers of subordinates and the related but separate crimes on his behalf.

'As the law now stands, there is a procedural strait-jacket which prohibits the trial of these offenses together (except in conspiracy, which is a mere misdemeanor), though they all co-ordinate the acts of the master through his subordinates. Although the organization is conceived and functions to prey upon hundreds of men in the same states, each of its offenses must be tried separately before a separate court and a separate jury.'

The so-called Dewey Law authorized the 'joinder' of connected or similar offenses in one single indictment with appropriate sentence on conviction. In Dewey's hands it

worked miracles. In his conquest of Charlie, he gave the Dewey Law its first workout. But who was Charlie? He was the prostitution racket. But he was far, far more than that. While his control over prostitution had not been suspected, he had been long known and well feared as one of the deadliest and most inaccessible of all the new monarchs of crime.

## Chapter IX • THE PURSUIT OF LUCIANO

UNDER the nourishing sunlight of Prohibition, a new group had prospered especially, both in Chicago and New York, under the name of L'Unione Siciliana (or Siciliona or Sicionione). It included many reputable Italians, but also covered much illicit activity.

When one of its worst men, Masseria, known as 'Joe the Boss,' was finally machine-gunned by his enemies, he was buried in a fifteen-thousand-dollar coffin which sixteen motor-carloads of flowers followed to the grave. To his power succeeded one of his bodyguards, who was said to have been hiding under a table during the fusillade. Others said he was washing his hands when Joe was slaughtered. He had frequent reasons for washing his hands.

He was a Sicilian named Salvatore Lucania, brought to America at the age of nine, though some of his many biographers claim him as a native of New York. At fourteen he left school and took up odd jobs. He despised the shabbier youth who worked for a living. He called them 'crumbs.' He preferred death to life as a crumb. Since men of his class rarely kept their original names, he was soon known as Charlie Luciano.

He was all of eighteen before he was arrested, and then as a peddler of narcotics. He already had four hundred dollars in the bank, but he was sent to a reformatory for six months of typical 'reformation.' He was arrested often thereafter for traffic violations, especially for traffic in narcotics, or for being caught with a gun on him. But the kindly magistrates always let him off lightly.

Once he escaped punishment by acting as an informer and telling the police where his confederates had hidden a store of narcotics. Of this treachery he was more ashamed than of anything else he ever did.

Developing precociously into a gambler and a gunman, he came into close relations with the Chicago gangs of Al Capone and others, and Little Davie Betillo, small to look at but big with a gun, and recently returned to New York after a gory career in Chicago.

Soon after Joe the Boss was wiped out, his surviving body-guard, Luciano, took over both the power and the title, 'The Boss.'

He had been marked for life some years before. One night in October, 1929, while he was waiting in the shadow of the Elevated Railroad for his girl of the evening, he realized, with almost more shame than fear, that he was about to be subjected to the old-fashioned experience of being 'taken for a ride.'

An automobile stopped in front of him and three gunmen beckoned him in. They beckoned with pistols, so he accepted their hospitality and was more disgusted than surprised when he was promptly gagged and bound. They drove to the Staten Island Ferry, crossed the Bay, and sped on to a deserted spot where Luciano was beaten and stabbed in face and body past all thought of survival. Then his spouting body was tossed into a ditch. But it did not stay there. It rose and staggered along the road. It met a policeman who took it to a hospital. It refused to name its companions in the car.

According to some, Luciano was henceforward called 'Lucky' because he was lucky to be alive. He himself said that when he was a boy he had had the word tattooed on his forearm with a tattooed horseshoe surrounding it.

After he rose to power as the successor of Joe the Boss, Luciano seemed always to have money. He dressed gorgeously and gave gaudy parties with whole seraglios of showy show girls. He traveled much and well, and was known as 'Charles Lane' uptown. But when he found a suite to his liking high in the tower of the Waldorf-Astoria, he lived

there on the thirty-ninth floor as 'Charles Ross.' No guest was quieter or more respectable.

Without arousing the suspicions of the management or the other guests, he received his lieutenants there and governed an increasing empire of floating dice-games, bootlegged liquor, narcotics, Italian lottery, numbers, receipt of stolen goods — what not? He was a versatile monopolist and had a hand in many important rackets besides running gambling clubs in Florida and at Saratoga.

But he did not like to be called by name. Sometimes careless people who spoke of him were warned that he was unmentionable.

#### THE MAN WITH IMPORTANT FRIENDS

Such power as his could never be gained or maintained without the toleration or co-operation of political powers. Luciano had important friends. He attended the Democratic National Convention of 1932. His companion was his friend, Albert Marinelli, one of the greatest political powers in Tammany until Dewey exposed him. Political leaders being a part of Luciano's army, somehow he ceased to be arrested in New York, and only out-of-town policemen sometimes stupidly picked him up for various offenses. All the while he was quietly gaining power, smoothing out the relations with such arch-criminals as Dutch Schultz, and with Lepke and Gurrah, especially with Lepke. But he dominated them all.

Some peace officers who knew what was going on called Luciano the deadliest and most evil genius in the whole country. He was not merely a New York menace. He had reached the ultimate peak as Public Enemy Number One.

Consequently, when Dewey heard from Dave Marcus, the booker of prostitutes, that the highest-up in the racket was Charlie, he drew a deep breath — like a man who, while rounding up a pack of coyotes, hears a hidden rattle-snake whirr.

The crushing of Luciano on any ground was a deed that had to be done. But first, he must be caught.

He was not in New York, and so evidence must be found strong enough to furnish grounds for his extradition as well as for his successful trial.

It was hard to imagine Luciano stooping to the coercion of prostitutes. There had been too much fantastic talk about 'white slavery'; for only in the rarest circumstances can a girl be really forced into prostitution entirely against her will. But the law gave a broad definition of 'compulsory prostitution.' If it could be proved that a man had, directly or through his aides, placed a girl in a house, or had taken any part of a girl's money, he was legally guilty of compulsory prostitution. In the course of his many-sided activities, Luciano's men had taken fortunes from bookers, from madams, and from girls. All that Dewey and his staff had to do was to prove this to themselves, then catch him and prove it to a jury and then to a court of appeals.

The case against Frederico and the rest had suddenly expanded to include Public Enemy Number One.

Specially assigned members of the staff worked through records all over the state and dug up pistol permits, drivers' licenses, and other documents, including the story Luciano had told to a Staten Island grand jury as to his experiences when he had been taken for a ride and miraculously lived to tell the tale. Before the staff had finished its researches among the sources, it had a documented record that would have delighted the most scholarly historical biographer.

Meanwhile, Dewey had instructed Barent Ten Eyck and others of his aides to 'break the witnesses' captured in the raid and fed so long. Dewey men spent six weeks persuading the girls and madams that it would not be fatal to tell what they knew. Part of the inducement was respectful and considerate treatment, and as much comfort as a detention prison permits.

There were perils in treating the girls in the House of Detention as if they were human beings. More than once they were stealthily approached with whispered bribes and warned that torture and death awaited them if they told what they knew. Some of them were frightened into silence



or lies, but a vast mass of testimony was secured at last. The staff laid this before the imprisoned bookers and convinced them that the jig was up. Three of them were overawed into joining the confessional. One of them held out.

Eventually Dewey's staff procured him evidence enough to take to his grand jury. It indicted the leaders. At Dewey's request, Judge McCook fixed their bail at \$100,000 each.

#### A MEETING IN MULBERRY STREET

Dewey had learned how Luciano in 1933 called together in a Mulberry Street restaurant the members of a small mob which had already started to organize the bookers and told them: 'You guys are through. I'm giving the business to Little Davie.'

He just said that, and turned around and walked out. But Little Davie Betillo lingered to warn them that it would be the knife or the gun for anybody who resisted. There was actually some shooting and beating before Luciano's decree was recognized and all of the bookers but four sought other livelihoods.

Among the four was Dumb Al Weiner, who had learned the booking trade from his father, and had succeeded to the business when his sire, Cock-eyed Louis Weiner, went up the river with Nick Montana. Dumb Al told how Little Davie once accused him and the other three bookers, Dave Marcus, Pete Harris, and Jack Eller, of holding out, and how he had threatened them with mayhem or worse.

Pete Harris, who had been brought back from Philadelphia, was one of the three who talked; and his wife also told how she had given up prostitution, married Harris and tried to bring up her little daughter decently; how she implored Lucky Luciano in person to let her husband resign and quit; how Luciano not only refused, but spat in her face for emphasis.

One of the prostitutes whom Luciano consorted with when his health permitted finally broke and told how he had confided in her at the outset his great plan to increase his

revenues by raising all the two-dollar houses to three, and so on up; then to take them all over and put the madams on salary like mere janitresses. She told of being in Luciano's tower suite and seeing his lieutenants come to report and receive orders. Sometimes for fun and for secrecy, he would make them get off far below his floor and walk up. It made him laugh to see them gasping and gripping their bounding hearts. A sense of humor certainly helps one along in life.

Bellboys and chambermaids and most reputable hotel people confirmed Luciano's activities.

At last Dewey had so much evidence marshaled against him that the jury added to its other indictments an indictment against Luciano on ninety separate counts.

But Luciano had left Miami where he had been last seen. Later, word came that he was in Hot Springs, Arkansas. When Dewey made his try at extracting Luciano from Hot Springs, he constructed a kind of scientific dime novel. Long-distance telephones and airplanes played their part in a seesaw of 'Hands up!' and 'Foiled again,' reeled off like a melodrama.

In the briefest possible condensation, it ran something like this: Dewey secured from Judge McCook a warrant for Luciano's arrest, with a request to the Arkansas court to hold him under \$200,000 bail till extradition papers could be sent. Two of Dewey's detectives flew to Hot Springs, arriving prophetically on April 1. Luciano was arrested at a gambling casino. Arrests to him were what traffic tickets for passing signals are to church members, and he went calmly to his cell.

But when he learned that Dewey was after him, he promptly sent an S.O.S. to three of the most prominent and skillful lawyers in Hot Springs. They hastily sought Chancellor Garrett. Finding him at a race-track and not telling him too much, they secured from him an order to release 'Salvatore Lucania' on the posting of a \$5000 bond. This was like asking Lucky for a nickel.

By telephone, Dewey learned that Luciano was out almost before he learned that he was in. Dewey stormed instructions to inform the Chancellor that Luciano's lieutenants were

being already held on \$100,000 bail and that Luciano himself deserved at least a \$200,000 rating. He also dispatched Edward McLean, one of his staff, by airplane to visit Carl E. Bailey, the Attorney General of Arkansas, in the capital at Little Rock, and urge his assistance in the extradition proceedings. The airship met bad weather and McLean had to finish his journey by train.

#### GETTING LUCIANO OUT OF HOT SPRINGS

Meanwhile, Chancellor Garrett, on the appeal of Dewey's men, ordered Luciano's rearrest and set his bail at \$200,000. Luciano was caught before he could even start for Mexico, and even he could not find such a sum in cash. But from his cell he tossed lesser moneys about as freely as if he had a pocket printing press. His attorneys sued out a writ of habeas corpus. Dewey's men rushed to Little Rock, got Attorney General Bailey out of bed, and told him what a criminal the state was harboring.

Bailey had been fighting the crooks in Hot Springs and in the early morning he obtained from a circuit judge a fugitive warrant. This was sped back to Hot Springs just in time to meet Luciano as he walked into court for the decision on the habeas corpus demand. And now he and his lawyers learned that he was to be arrested and carried off to Little Rock. Rather than entrust their guest to Little Rock rigors, Luciano's lawyers withdrew their habeas corpus writ and Luciano walked back into his safer cell.

But Attorney General Bailey was not to be so easily denied. Securing the Governor's authority he called out fifteen state troopers with machine guns and descended on Hot Springs. After three hours of refusal, the outnumbered powers yielded, and Luciano meekly went to a less hospitable jail in the capital of the state.

Meanwhile, Dewey had put two more detectives on an airplane with a certified copy of the indictment and a formal request for extradition. This airplane also was forced down by bad weather and a split propeller. The hearing was in session and they arrived just before it was quite too late for

their testimony. The Governor of Arkansas granted the request of the Governor of New York for the extradition of Luciano.

But Luciano's attorneys had already forestalled and checked this by securing another writ of habeas corpus from a federal district judge whose authority extended over Little Rock. He summoned Luciano to federal court next morning, and Luciano swore he was not a fugitive and was not in New York on the date mentioned in the indictment. The judge denied the writ, but gave him ten days to apply to the Circuit Court of Appeals, with the stipulation that his attorneys must put in their application by April 17 and give twenty-four hours' advance notice of it.

There was nothing for Dewey's men to do but wait.

In the excitement of their search for a circuit judge to hear Luciano's appeal and their inability to find one who would grant it, his lawyers forgot the twenty-four-hour advance notice due on April 16. But Dewey did not forget it. He telephoned orders that at one minute after midnight, with the permission of the Attorney General, his men should take Luciano out of jail by right of the extradition papers and bring him back to New York.

Attorney General Bailey went so far as to arrange that the midnight train should be held for fifteen minutes. And now the gangster was rushed to the train at the last moment. They stowed him in an upper berth of a locked stateroom and guarded him without rest all the way to New York. They were not so much afraid that he might try to escape as that he might be rescued by other gangsters. His usual calm had given way to utter despondency when he saw his costly and powerful defenders fail to stop Dewey's relentless men.

He had spent \$100,000 in vain in his attempt to escape. He had even offered the Attorney General \$50,000 to keep his hands off. But all that Mr. Bailey had to show for his fine work was a letter of congratulations from Dewey for his legal skill and honesty. The next year he was elected Governor.

Luciano was especially sick at being dragged before the

court as a mere prostitutioneer and when at last he confronted the bar of Justice McCook, he heard Dewey ask for high bail in these words:

'His business is far-flung, and brings in, to my certain knowledge, a colossal revenue. He is one of the largest beneficiaries of the policy racket. His henchmen operate a number of industrial rackets as well as drug-importing and bookmaking. He is one of the biggest illegal importers of drugs in the country. He is head of a large syndicate with sources and amounts of income far in excess of any bail you might set.'

Judge McCook fixed Luciano's bail at \$350,000. He and his lieutenants under the new-fangled joinder indictment were now held in a total bail of \$1,175,000; for his aide, Ralph Liguori, had meanwhile been captured and added to the eleven first arrested. So there were thirteen — an unlucky number for Lucky.

## Chapter X • THE TRIAL OF LUCIANO—AND AFTERWARD

ON MAY 11, 1936, in a heavily guarded courtroom, the sessions opened, with a special panel of jurymen. Before the case went to the jury, the three of the four bookers who had talked pleaded guilty of ninety felony counts. Since each time a girl was booked they had committed three crimes, the crimes charged could have been almost numberless. Now there were only ten defendants left, with eleven lawyers to defend them. The selection of the jury took two days. Then Dewey opened the case.

‘The age-old institution of prostitution is one which I should be mad to think I could stop. However, it is only in the last few years that the institution has been organized.’

Knowing what the defense would say of his witnesses, Dewey said it first:

‘Frankly, my witnesses are prostitutes, madams, heels, pimps, and ex-convicts. Many of them have been in jail. Others are about to go to jail. Some were told that they would be prosecuted if they did not tell the truth. I wish to call to your attention that these are the only witnesses we could possibly have brought here. We can’t get bishops to testify in a case involving prostitution. And this combination was not run under arc lights in Madison Square Garden. We have to use the testimony of bad men to convict other bad men.’

Because a whole system was on trial, Dewey set up a big chart showing the dynasty of Luciano — twenty-five men in all.

The first witness was an Italian girl, Renee Gallo, who

had strangely chosen 'Rose Cohen' for her trade-name. The Italians who change usually select Irish names. This shy brunette told how she had been taken up and run through the Luciano machine. A contemptuous cross-examination did not shake her story, and could not add to the degradation she had confessed.

'WHERE I WON'T BE MURDERED'

Dave Marcus, who had turned state's evidence, told how the bookers were shot at and scared into submission. Pete Harris added his revelations. Then Dumb Al Weiner, the third booker who had pleaded guilty, testified. On cross-examination, Attorney David P. Siegel asked a question he wished he hadn't, for when he demanded what compensation Dewey had offered Dumb Al for squealing, Dumb Al said that Dewey had promised to recommend leniency and put him in 'a jail where I won't be murdered.'

Siegel leapt up and protested at the answer, but he had asked for it and the judge let it stand.

One by one prostitutes and madams, whose names were as curious as their lives had been, told how they had been bought and sold, robbed, beaten, tortured under the Luciano régime. A hideous procession of people had come up from an inferno to tell of life in hell.

Yet thus far Luciano had been connected with the case only vaguely. Dewey had counted especially on six witnesses to tie him into the racket. Of these, four were women, and one of them was a narcotic addict in no condition to testify. Two were men, Joe Bendix and 'Good-Time Charlie,' and the latter played Dewey false.

Just as Charlie was to be called to the stand, he recanted the testimony he had given before the grand jury. He said he had lied, and refused to go on. He feared death perhaps in the very witness chair. It was proved later that he had been bribed to recant, with cash and a gambling concession in the Adirondacks.

Joe Bendix, a hotel thief who had been brought down from Sing Sing, went forth boldly and told an excellent story well,

and it linked Luciano with the case. But the defense impressively called in Morris H. Panger, assistant to District Attorney Dodge, and he submitted a letter that Bendix had written to his wife asking her to 'think up some real clever story to tell.' But he had enclosed the letter to his wife in an envelope addressed to Dodge's assistant, whom, incidentally, he was trying to persuade to secure a lighter sentence than the one he was serving.

Joe's little mistake in envelopes looked to be an intentional ruse. But would the jury think so? Would the jury wonder why Mr. Dodge should have given the letter to the defense and said never a word to the Special Prosecutor until after Bendix left the stand?

And then out of a very murky sky a very dirty angel appeared. She was sent from heaven, but she did not look it. She was known to ill fame as Cokey Flo. Barent Ten Eyck received a letter from her, offering help and saying that she had been for three years the sweetheart of Jimmy Frederico.

Picturesque, indeed, her life had been. It had been positively picaresque. At fifteen she had run a speakeasy in Cleveland in partnership with another lady of the night. Later she had led a triple life as the polyandrous mistress of three men at once. By devious ways she had reached New York, where she opened a house of her own.

#### THE TESTIMONY OF 'COKEY FLO'

When Frederico was taken over by Dewey, she went to his lawyer in all eagerness of love and offered her aid, but she was coolly treated, since there was nothing in her relations with him that would make her an ideal character witness. Left to her own devices she was arrested for soliciting. She was hurt by the failure of Frederico's lawyer to be excited over her plight. While she languished in the House of Detention, she reviewed auld lang syne with some of the girls whom Dewey was holding as witnesses. They told her that Dewey's men were on the level.

When the trial began, she read the long stories in the news-



papers and began to brood. Frederico had sent her neither money nor flowers when she was 'in jail, sick and broke.' She did not love Luciano, and as for the defendant Tommy Bull Pennochio, she blamed him for starting her on the dreadful morphine road. She decided that Jimmy Frederico had forfeited all claim to her loyalty and she wrote to Dewey's chief assistant, Ten Eyck, saying that she would be glad to talk.

Ten Eyck talked with her. He listened to her many hours that night in the city prison. And he made page after page of longhand notes of her story — notes that later became very important indeed. But for the moment it was only her testimony that was important.

Was she a 'plant'? Dewey was cautious. He wanted to see the witness himself — take her statement — and with others present who could add their judgment as to its verity. In the end it was unanimously agreed that she was telling the truth, and the whole truth.

The next day she appeared on the stand, to the stupefaction of the defense. She was miserably sick, but she got through her story fully and well. In two days she endured hours of direct examination and then nine hours of brutal cross-examination. And she fastened Luciano to the racket completely.

The reporters, never dreaming how recently she had volunteered her aid, said: 'Dewey played his ace today.'

Luciano's fatal blunder was that he made his lawyer deny his own mob. In opening to the jury, his lawyer had repeatedly asserted that Lucky did not know — 'had never seen' — a single one of his co-defendants except Little Davie Betillo. When Dewey brought in an array of reputable witnesses and proved that Luciano did know the mob he had denied, they destroyed his whole defense.

The twenty-ninth woman witness was the first of the respectables, a bright, brave hotel chambermaid whose duties had included putting Luciano's hotel suite to rights and sitting in a chair in the hallway to keep an eye on things. The 'things' included Luciano's constant visitors. She identified three of the leaders whom Luciano vowed he had never laid eyes on.

With her a new type of witness came in. Dewey built up the contrast in character and the confirmation in story. He had confined himself thus far to witnesses of disreputable life and credibility so poor that only circumstances could bolster them.

Suddenly he marched in six witnesses in succession who earned their money honestly and cleanly. They were members of the hotel staff. All of them testified that the very people whom Luciano vowed he had never seen were constant visitors to his rooms. They came often and stayed long in conferences the nature of which the hotel people could never have imagined. But the faces of the visitors could never be mistaken or forgotten.

The defense lawyers could not tear down the character of this half-dozen and Luciano's chances of acquittal slumped.

Then Dewey resumed his dingy parade.

The trial was a game of ups and downs, of witnesses who scored and witnesses who flunked. Dewey arrested one lawyer for trying to bribe a woman to contradict Cokey Flo. He arrested four men and a woman for offering witnesses a choice of bribes or death. But he was always on the anxious seat. He told the reporters: 'I never know who the next witness will be. They're fainting on me.'

Pete Harris's wife was ill from fear, but she survived the ordeal and held to her story of Luciano's cruelty to her husband and of his saliva in her face.

#### THE DEFENSE

After a parade of sixty-six witnesses, Dewey rested his case at the end of the second week of trial.

Quite as suddenly the lawyer of Jack Eller, the only one of the four bookers to stand trial, announced that his client would plead guilty. To offset this, Luciano announced that he would take the stand. The defense began with various detectives, policemen, and others who gave testimony to prove that Dewey's witnesses were what he had already admitted them to be from the start.

One officer who had been assigned to guard witnesses told

how he had accompanied one of the girls on a night's outing. It was later proved that he had put \$83,000 into his bank account. But his testimony seemed to hurt Dewey's ease. He was followed by a succession of gamblers and bookmakers who described Luciano as 'a romantic soul and a roistering gambler.'

It was Dewey's turn now to cross-examine and he dealt mercilessly with the defense witnesses.

In his own defense Ralph Liguori took the stand and swore that an assistant had offered him immunity if he would frame evidence against Luciano. But, as one reporter put it: 'Now coaxing, now driving hard, Dewey had Liguori stumbling before the cross-examination had gone five minutes.'

With all his previous witnesses cut to ribbons — their credibility utterly destroyed — Luciano kept that steel-gray calm which the probation officer later described as the secret of his success in rising to the peak of national underworld power.

And, 'debonair in a cool gray suit,' Luciano said: 'I'm ready for Dewey.'

On the stand he played the familiar dual rôle of witnesses: they usually have one personality before their own lawyers, and become entirely different people under cross-examination.

On direct examination by his own counsel, Luciano maintained his famous calm. He denied that he had ever met any of the other defendants, except possibly Little Davie. He had never taken a penny from any prostitute. He claimed that he was a gambler and a successful one, though as an eighteen-year-old lad he had strayed into narcotic peddling. When his lawyers turned him over to Dewey, he was a very paragon of success and the good sportsmanship of a man-about-town.

#### LUCIANO ON THE STAND

Almost instantly Dewey transformed Doctor Jekyll into Mr. Hyde. Bringing up the incident already referred to in Luciano's life when, to save himself, he betrayed another dope-seller, Dewey flung at him the horrible words:

'You were a stool-pigeon then.'

Caught in his own testimony, Luciano was amazingly wrecked. He was like a swaggering prizefighter who gets a sudden clip on the point of the jaw and turns into a gaping imbecile with buckling knees.

After shattering Luciano's professional armor of ice, Dewey proceeded to grind him to bits by questions about his life in detail. He seemed to know more about Luciano's career than Luciano did.

Luciano had as hard a time as Dewey had in trying to find one honest day's work to explain the wealth Luciano had heaped up. Dewey shuffled before Luciano's bulging eyes a heap of reports of his arrests, 'to refresh his recollection.' Tied hand and foot by his own contradictions, Luciano confessed he had obtained pistol permits under false pretenses. He was made ridiculous by a pretense that he had carried two pistols, a shotgun, and forty-five rounds of ammunition in his cars 'to shoot birds with.'

'What kind of birds?'

'Peasants.'

'Shooting pheasants? — in July? — with a pistol?'

Dewey did not need to stress the verbal slip. The mental slip was laughable enough.

When Luciano swore he had never known this or that one of his own intimates, or had never gone to this or that rendezvous, Dewey produced the records of his telephone calls, including his calls to such gangster comrades as Lepke and Ciro Terranova.

For more than two hours Dewey slashed his record as full of holes as his fellow gangsters had once slashed his body. He was almost as limp when Dewey threw him back to his lawyers. On redirect, Luciano's counsel tried to patch him up again, but he responded to their ministrations so ill that they quietly led him off the stand.

The defense rested its case on June 4. In summing up, the defense attorneys changed the subject and treated Dewey as the culprit.

The defense shouted at him:

'You have legalized prostitution by giving immunity to

these pimps, prostitutes, and bookers. You have given them carte blanche to go out and begin all over again and you can't do a thing about it because your hands are tied.'

This last sentence was more or less true; but Dewey had from the first disclaimed all hope of ending immorality. What he was attacking was the unholy power that the organization of vice put into the hands of certain plutocrats of crime.

In his own summation Dewey described the tactics of the defense:

'There have been thirteen hours of summation in this case so far, of which one and a half hours were devoted to the case. The other eleven and a half hours were devoted to vilification, abuse, and dirt-throwing. I was almost tempted to look over the indictment to see whether I and my assistants were not included. I have never heard such a variety of abuse in a courtroom; but I will not indulge in those tactics.

'I have heard myself described as the greatest actor in America; as an irresponsible child of thirty-four; as Machiavelli's lineal descendant. Now if one tenth of that were true, I should not be wasting my time in a courtroom.

'There is an old adage in criminal practice: If your case is bad on the facts, try it on the law; and if the law is all against you, try it on the facts; and if the facts and law are dead against you, try the District Attorney.

'I shall not debate the ethics of anybody. I shall not debate how any lawyer could put on the witness stand a shocking spectacle of perjury. None of my witnesses took the stand under false colors. The great complaint of Luciano and his co-defendants is that the first and only commandment of the underworld has been broken: "Thou shalt not squeal."

'Of the sixty-six witnesses for the people, fifty-five are professional criminals of one kind or another — all of whom, with the exception of three defendants, had been granted immunity. There was no reason why they should not tell the truth. . . .

'Gentlemen of the jury, have you ever dealt with sheer,

stark, paralyzing terror?... You heard Danny Brooks testify that he asked me to put him in some jail where he would not be murdered. That was no fiction, gentlemen.

'The defense brought that out. They handed that to me. Then there was Thelma Jordan, who was asked by a defense lawyer why she did not tell her story when first questioned in my office. She said, "I'll tell you why — because I've seen girls cut and burned when they squeal." They knew they'd made a mistake when they asked that question. They never asked it again.'

He took up the individual defendants one by one, but called Luciano 'the greatest gangster in America.' And he pleaded, 'Unless you're willing to convict the top man, you might as well acquit every one.'

Dewey ended his speech at 6.15 P.M. on June 6, a Saturday. Then Justice McCook spent two hours on his charge to the jury.

It was half-past nine at night before he sent the jury away to its dinner and at eleven they began their deliberations. The lawyers, witnesses, spectators, and others went to their dinners, in the peculiar exhaustion that comes over the participants in such a trial at its close. For there are no other dramas so full of human interest and suspense as those enacted in the theaters of justice.

Dewey had spent the night before working on his summation and had had only two hours' sleep. Now he went up to the deserted dining-room of the judges in the same building. He took off his tie, his waistcoat and his coat, stretched out on a sofa, and slept peacefully for five hours.

#### THE VERDICT OF THE JURY

The Luciano case had been carried on day after day and often late into the night for twenty-six days, from May 11 through June 6, 1936. The delivery of the verdict was appropriate to the whole slimy melodrama. It was itself pure theater of the old school.

After a long night of dreary vigil or fretful sleep, the dim lights of the courtroom were dimmed by a drab dawn with

a sardonic accompaniment from distant bells calling to early Sabbath Mass. Perhaps it was this tintinnabulation that broke into Dewey's light slumber. At five o'clock he sat up, washed hands and face, put on his tie and coat, and set out for the courtroom. In the hall he was met by an attendant hurrying to tell him:

'The jury's coming in, sir.'

The haggard judge slipped into his chair. The lawyers stumbled to their places. The spectators scurried to seats in breathless curiosity. The courtroom was charged with tension.

As the solemn jury issued from its door, another door opened to admit the defendants and the detectives who guarded them. Luciano, as was his right, led his little cohort. He was very calm, well braced for the verdict; his lawyers had told him that he would be found guilty.

Court Clerk McNamara arose and polled the jury. Then he chanted:

'Gentlemen of the jury, have you agreed upon a verdict?'

In ritual antistrophe, the foreman, Edwin Aderer, chanted:

'We have.'

'How say you, gentlemen of the jury, do you find the defendant Luciano guilty or not guilty on count number one?'

'Guilty.'

'How say you as to the defendant Luciano? Is he guilty or not guilty on count number two?'

'Guilty.'

'Third count?'

'Guilty.'

'Fourth?'

'Guilty.'

And so on and on through the deadly mounting suppressed excitement in a tension so unbearable that one newspaperman broke into hysterical laughter and had to be led from the courtroom. But the 'Guilty's' went on until —

'Sixty-first?'

'Guilty.'

'Next defendant, Thomas Pennochio.'

The Bull rose to face the flogging he had heard administered to his master. It took half an hour for the monotonous tick of numerals followed by that monotonous tock 'Guilty.' Five hundred and forty-nine times it was reiterated while the church bells bonged and the gangsters' women sobbed and moaned.

The feelings of the Prosecutor must have been tangled, too. But he had wielded the sword entrusted to him and he had broken to pieces a hideous structure. It was a kind of poetic justice that the racket which Luciano despised as his least should have been the one to cut short his career.

The hour, though early for the court, was too late for the Sunday papers. But on Monday the newspapers of the nation flung out their streamers:

'Luciano Guilty!'

There were no church bells knelling on the day when Judge McCook meted out the punishments. But his words also tolled like tocsins, and rain beat on the courtroom windows, as he sentenced the three bookers who had turned state's evidence to prison from two to four years. Jack Eller, who repented too late, received four to eight years; Liguori, from seven and a half to fifteen years; Jimmy Frederico and Bull Pennochio, twenty-five years each; Little Davie, from twenty-five to forty.

When Luciano stood before the bar Judge McCook said:

'You are responsible in law and morals for every foul and cruel deed with accompanying elements of extortion performed by the band of co-defendants. I am not here to reproach you, but, since there appears no excuse for your conduct nor hope for your rehabilitation, to administer adequate punishment.'

He estimated this at from thirty to fifty years. Good behavior would make Luciano eligible for parole in twenty years, at which time he would be one year short of sixty.

Commissioner Valentine promoted sixteen policemen for their good work. Mayor La Guardia joined the paeans of praise, saying that Luciano 'could never have run his rackets without the knowledge if not the connivance of some of the very people entrusted with law enforcement. I recommend



But public officials rarely die, rarelier resign, and never commit *hara-kiri*.

#### A WEARY GRAND JURY

The weary special grand jury sent in its resignation on June 30 to Judge McCook, sighing:

'We have now served without interruption for more than five months. . . . The burden of this work has, of course, kept us from the conduct of our private affairs. . . . We are gratified to have been instrumental in returning felony indictments upon which, for the first time, a leading underworld figure has been tried and convicted in a state court.

'While the investigation, prosecution, and conviction of these racketeers constitute a landmark in law enforcement, the work is barely commenced. . . . One imperative need of the investigation is, in our judgment, that there be two grand juries. . . . We understand that, although we have heard more than five hundred witnesses, many of them for hours at a time and on repeated occasions, this total is not five per cent of those examined in the Prosecutor's office.

'The Special Prosecutor, with a limited staff and resources, has during all our service worked night and day under the severest pressure. We have greatly enjoyed our contact with his tireless and effective work and that of his exceedingly able staff.'

On July 8, 1936, Governor Lehman ordered that two special grand juries be empaneled for Dewey's use. He continued Judge McCook in office and appointed Supreme Court Justice Ferdinand Pecora as the second jurist, from which appointment much drama was to result.

Before long both of Dewey's grand juries were bemoaning the fact that he was overworking them. But for the present he indicated that he was about to disappear again for a long time. The press speculated that the next racketeers to be prosecuted would be those preying on legitimate industries.

But before taking up the chronicle of the next war, it may be well to finish with Luciano and his confederates.

The disposition of the threescore and ten women who had

been kept from their trade for so long was impossible of satisfactory solution. They had earned the public gratitude, but the lives of some of them were in grave danger. These were given all possible protection, two of them being shipped off to Europe. The rest went forth rich in the long accumulation of witness fees. A few of them rushed to the nearest bar and lifted their spirits so high that they returned to the Woolworth Building and tried to persuade their old friends of Dewey's staff to join them in a festival.

One of the convicted men, Bennie Spiller, a loan shark, when released two years later, made the grand rounds and reported that many of the girls were 'back in the business. But they're all madams now.' But while the girls may have been back in the business, nobody attempted to reorganize it as a racket. The guiding genius was absent.

Suddenly the headlines loomed with a ghastly satire on Dewey's promises. In a speech he made two years later to the Bureau of Advertising of the American Newspaper Publishers' Association, he described the incident and how the publicity hurt his progress in the prosecution of the industrial racketeers.

'A psychopathic prostitute, who had not testified in the trial, scratched Luciano's initials on her body. She then telephoned the police that the Luciano mob had got her at last. Hysterical headlines appeared. She was lying on her deathbed! She had been tortured and branded! She was the first victim of gangland's revenge for Luciano's conviction!

'A chill of fear and revulsion swept through those who had come to believe that perhaps, after all, the law was bigger than the underworld. Some papers printed everything the woman said, but during the first twenty-four hours, when the story was biggest, they forgot to find out or print that the woman had never testified — was not, in fact, a witness for the people at all. It soon became apparent that the whole business had been perpetrated by the girl herself.

'The unfortunate thing is that the average newspaper reader never saw the small story which appeared on the back pages a few days later, branding the business as a hoax. People still ask me, "What happened to that poor woman who

Still worse was to follow. Luciano and his lawyers suddenly broke into the climax of Dewey's pursuit of the industrial racketeers with a demand for a new trial based on startling affidavits. To Luciano's former counsel had now been added the distinguished services of the Honorable Martin J. Conboy, who had just left his office as United States Attorney.

The new development was an earthquake that rocked Dewey's prestige. Three of his most vital witnesses, Nancy Presser, Mrs. Mildred Harris, and Cokey Flo Brown, had sworn that everything they testified to was false. They painted a sickening picture of the alternate coddling and threatening they had received while in Dewey's power. They swore that they had been kept under the influence of liquor and wheedled into telling the court and jury a pack of lies in which they were rehearsed by Dewey's men. They even swore that Luciano had told the truth; they had never even met him.

Dewey gave out this statement:

'Over the past nine months witnesses have complained to my office of efforts to intimidate them by threats of murder into giving false affidavits of recantation and also making false charges against lawyers of my staff. They have also reported large offers of bribes and regular supplies of narcotics. Among these witnesses were Nancy Presser, Mildred Harris, and Cokey Flo Brown, whose affidavits apparently have been procured by the agents of this criminal. My office has 128 affidavits from witnesses showing that more than \$100,000 has been offered for the corruption of witnesses. These will, of course, be presented to the court.'

He promptly dragged two of the defense lawyers, Carlino and Polakoff, before Judge McCook, on March 7, 1937, and asked where the girls were concealed.

'None of your business,' said Polakoff.

But Judge McCook forced him to tell. They were in Connecticut, safely out of reach. When Dewey demanded to know where Polakoff first learned that the girls were using dope, Polakoff answered: 'I first learned when Flo Brown, in her statement at Conboy's office, said she had been using dope since the trial, but had not been using it at that particular moment.'

## THE CONVICTION 'STICKS'

Dewey set part of his staff to the task of destroying the value of those affidavits of recantation. They worked for three weeks gathering a mass of evidence proving that the recantation was a manifest concoction of lies contradicted utterly by demonstrable facts. They supported their arguments with affidavits by people of unimpeachable character.

They laid before Judge McCook a bundle of seventy affidavits and a hundred documents so convincing that he judicially declared the recantations to be perjuries and refused a new trial.

On April 15, 1937, Mr. Conboy took the case before the Appellate Division. On July 15, 1937, that court unanimously upheld the conviction of Luciano and his confederates.

But Conboy was as persistent as Dewey. On January 19, 1938, he protested to the Court of Appeals in Albany that Luciano had been 'railroaded on scanty and inconclusive evidence' and cited twenty-five points in support of his contention.

Dewey answered: 'The case obviously cannot be retried. The witnesses for both sides composed as fine a collection of pimps, thieves, prostitutes, and criminals as was ever gathered under one roof. They could never be found again. The case is here for the first and the last time.'

Conboy gave a brief rebuttal, but three months later, on April 12, 1938, the Court of Appeals by a vote of five to one affirmed the conviction and set its seal to the constitutionality of the joinder law, adding: 'We must not be so backward as to make our legal procedure a hindrance instead of a furtherance to justice.'

At this point Mr. Conboy seems to have given up the struggle; but on July 11, 1938, Moses Polakoff took the case to the Supreme Court of the United States and protested that Luciano was the victim of the joinder law passed in 1936, which enabled a prosecutor to include a series of violations in one indictment, though Luciano was charged with crimes assertedly committed before the 1936 law was passed. To make its provisions retroactive was unconstitutional; it

subjected Luciano to a much longer jail term than if he had been convicted under the old law; the due process of the Fourteenth Amendment was violated and Luciano was convicted under conditions that precluded a fair trial, he contended. He omitted to point out that the federal courts had operated on a similar statute since 1853.

The Supreme Court was as cold to Luciano's sufferings as he had been to those who had appealed to him. His appeal for a review of the case was denied unanimously. His downfall opened a breach in every other evil combination, for, as he was described, he was 'head of the worst rackets in New York, partner in all.'

#### THE STORY OF THE AFFIDAVITS

The story of those three girls who helped to convict Luciano, then recanted and tried to release him, was told to Frank S. Hogan, now an Assistant District Attorney, by one of the girls. According to her, after Luciano's conviction and their release, three of the principal witnesses were hunted down by Luciano's friends and forced under threats of torture to sign the affidavits written for them. They were well paid, but kept under guard and moved from city to city until the time when they should be needed as witnesses if the case were reopened. Two of the girls went back to narcotics and a trained nurse was added to their retinue. One of the girls, in an effort to escape, shot off the thumb of one of the guards.

The refusal of Judge McCook and the other courts to take seriously the fantastic affidavits robbed the girls of their market value to Luciano as witnesses. After a year of gypsying about, the guards were suddenly withdrawn with a promise that each of the girls would receive fifty dollars a week for another year. They are still waiting for the first check. Two of them have gone back to narcotics and oblivion; but one of them has become a blooming bride after a year of hard work and clean living.

That is the one pleasant, wholesome note in the squalid epic of Luciano.

## Chapter XI • THE MURDER OF WILLIAM SNYDER

THE crushing of what might be called the sex racket had been a sort of excursion from Dewey's chief objective, an attack on the industrial rackets. These touched, not the vices, but the necessities, the decencies, the very food of nearly every citizen. Despite the exactions of the pursuit, the capture, and putting-away of Luciano, the industrial racket investigations had never lagged.

In that first radio speech of his announcing his plan to go to work in silence, and asking for patience, Dewey had spoken of the criminal control of poultry, vegetables, fish, baking, trucking, even the garments of most of the inhabitants of the city. He had spoken of the ferocity with which the racketeers crushed their victims: 'Truck tires are slashed in the night, fresh vegetables and fish are soaked with gasoline, or stolen, customers are intimidated, employees are beaten up, plate-glass windows are broken, and often whole stores are completely wrecked.'

The vast growth in power and revenue of the labor unions had made them attractive to the racketeer both as treasures to plunder and as mercenary armies to use for plunder. It was against the criminal invaders, who cheated and crushed the dues-payers as well as the wage-payers, that Dewey prepared war.

Some of the racketeers had had the devilish inspiration to combine crooked or terrified employers with crooked or terrified labor leaders into double rackets. These Dewey recognized as his biggest problem. He kept his work as secret as possible, but he had to have witnesses and he had to have:

records; so, from time to time, hints of his activities caught the public attention; and from time to time he or one of his several aides emerged briefly to mop up some minor evil.

Droves of witnesses and victims were being herded into Dewey's offices, but few of them were giving him any help beyond the eloquent evidences of their terror. There was a procession of employers who were little better than slaves. Spiritless citizens were afraid even to attempt escape from the invisible barbed-wired concentration camps of the gangster dictators. This disheartening yet enraging spectacle only sharpened Dewey's resolution to cut the wires and unseat the dictators.

His impatience was hinted in his speech at a luncheon given a fortnight before Christmas, 1935, by three hundred of the city's business leaders who were trying to raise money for the United Hospitals Campaign. He said he was appalled that it needed such effort to raise \$2,000,000 for a hospital fund when a comparatively small racket like that of the loan sharks had taken in \$10,000,000 a year.

'There are at least twenty other rackets in the city whose annual take is as great or greater. In many cases business interests are allied with underworld elements either for trade advantages or because racketeers have chiseled in on industry, and business has submitted to them.

'Not one business man out of a hundred has told the truth to my assistants. They continue to lie and evade, although we know they have paid from a thousand to ten to fifty thousand dollars in shakedowns. In one industry alone two hundred and fifty business men have been examined with disheartening results. . . . A placid community too often falls into the error of believing that as long as the gangsters kill each other off there is some gain to the community. When a gangster is killed, the reason, ninety-eight per cent of the time, is that his racket has become so profitable that some more powerful gang is taking it over. A dozen gang killings mean so many more punks under the sway of the men for whom they did the killing.'

While Dewey was dragging records from employer victims, he was trying likewise to redeem certain labor unions

from a serfdom far worse than their employers ever had imposed.

He was saving the people from countless millions in extortion; and he was turning up enormous revenues of which the state had been defrauded. His casual exposure of poultry racketeers uncovered collectible taxes amounting to \$487,299. This sum alone was practically enough to liquidate the cost of his investigations for two years.

The garment industry, being the largest of all New York industries, had of course its indigenous racket. In October, 1935, Dewey's men, armed with subpoenas, visited the headquarters of a group that was extorting a million dollars a year from the clothing industry. He sent a truck and five taxicabs to their central office and filled them with subpoenaed books and records.

#### LEPKE AND GURRAH

He had as yet only the beginnings of evidence in what turned out to be the longest, most difficult of all racket investigations, the crushing of the garment racket and the elimination of its two ranking bosses, Lepke and Gurrah.

They were then so utterly unknown that newspapermen did not recognize their names or their activities, although they had been ruling the garment industry for nearly ten years, and had already spread their tentacles over many others. Their real names were Louis Buchalter and Jacob Shapiro; but 'Lepke' and 'Gurrah' were the whispered names used in the industries they dominated.

Those two sobriquets have so ghoulish a sound that they might strike one as the fantastic creation of some shilling shocker. Their actual doings outran the imaginings of an old-fashioned dime novelist. Dewey himself painted their portraits in a speech he made October 3, 1937, after he had indicted them, and police throughout the nation had been chasing them in vain. He could still describe them as 'the two greatest industrial racketeers in this country.' He went on:

'Gurrah, a short, beetle-browed, bull-necked thug, was



once a petty thief. Coarse, hoarse-voiced, and violent, he was arrested for the first time in February, 1915, for malicious mischief and was discharged. In August, 1915, he was sent to the reformatory as a burglar. After that he served three additional terms in jail; but never since he rose to power has he been convicted of any crime.

'Lepke, the brains of the team, also started to build up a police record in 1915, when he was arrested for burglary and assault. Thereafter he served three terms in prison, but none since he rose to power. Lepke is slimmer, acts like a respectable business man, and, until he became a fugitive, lived in a luxurious apartment overlooking Central Park. He traveled about town in a high-powered motor-car driven by a chauffeur, and he patronized night clubs and race-tracks.

'The sinister parallel between the careers of the two partners, Lepke and Gurrah, began to develop about twenty years ago when they teamed up as free-lance sluggers and sold their services in industrial disputes to the highest bidder.

'Over the dead bodies of their former masters — Little Augie and Curley — Lepke and Gurrah stepped into a position of power never since challenged in the great industrial rackets which they dominated. Their names are almost a legend.

'When a gorilla called upon a business man and said, "I am from L & G," the victim asked no questions. Just the word that a visitor came from "The Boys" was a message of terror.

'Lepke and Gurrah are no longer police characters. They wouldn't think of carrying a gun or getting into any trouble. They graduated from all that years ago. They wouldn't even think of arguing with anybody. Of course, if someone caused them trouble, they might drop a hint to one of their subordinates that they didn't like that person, but they wouldn't think of being direct participants in his murder. That would be the private venture of some one of the boys on the payroll, who would never squeal, even if caught.

'As their power grew, Lepke and Gurrah decided, back in 1931, to take over the flour-trucking and the baking indus-

tries while the machine-controlled District Attorneys of the county, with their politically picked assistants, were sleeping peacefully. Lepke himself began it by sending for a business man to tell him that they were going to be partners. The business man refused. Agents of Lepke visited him and made threats. Again that business man refused. Courageously he made a complaint against Lepke and his henchmen, charging them with attempted extortion. There was a trial and Lepke disappeared conveniently for a while; but he came back and operations went ahead again.'

The activities of Lepke and Gurrah were linked from time to time with those of other gangsters who were now their colleagues in piracy: such men as Dutch Schultz and Luciano with their subordinate buccaneers. Their conspiracies were so complex as well as so incredible that they became a jungle, a jumble of jungles. Dewey and his little army of aides spent months, years, in exploring and cleaning up those jungles, tracking down the worst beasts and bringing them back alive.

The reader will be hopelessly lost unless the various jungles are described separately, with a word as to the history of each. But it should be kept constantly in mind that Dewey's aides were carrying on many man-hunts simultaneously and reporting their daily findings to him. Under his general direction daily or nightly staff conferences were held and maneuvers agreed on.

#### A ROOM IN AVENUE A

Beginning cautiously, Lepke and Gurrah had made an almost complete conquest of the flour-trucking and bakery industries when Dewey's men first ran across their trail while investigating the murder of William Snyder, and its peculiar sequel, the sudden dropping of all interest in it by the officers of the law. In his first radio speech Dewey had besought the public to bring him evidence of crime and complaints of injustice. A multitude of complaints poured in, but no evidence. Among the countless letter-writers were William Snyder's mother and his widow. They had listened

to Dewey's voice over the radio, and they deplored the shameful failure to avenge or even investigate the crime. As soon as Dewey had his staff organized, he assigned one of his chief aides, Barent Ten Eyck, to the special task of solving that mystery.

Ten Eyck secured from the office of District Attorney Dodge and from the police such files as they had. As Dewey's office reconstructed the crime, they found before them a horrifying picture of the audacity of criminals and the apathy of authorities. Long afterward, Dewey gave so colorful an account that nothing could better its quotation:

'It was the night of September 13, 1934, in Garfein's Restaurant, at No. 10 Avenue A. The public dining-room was nearly deserted, but in the large room adjoining it, members of the Flour Truckmen's Association were meeting with the bakery racketeers who dominated them.

'The room was dark, except for one small pool of light in a front corner. Under that light two little round tables were shoved together, and around them sat fifteen men, discussing the threat of a strike. Twelve of these men were connected, in one way or another, with the Flour Truckmen's Association. There was Max Silverman, a partner of Lepke and Gurrah. Also there was Meyer Luckman, who only a few months after this meeting murdered his own brother-in-law, Sam Drukman, and was sent to Sing Sing for that crime. There were also three other leaders of the bakery racket.

'They had left one vacant chair, with its back toward the door. It was for William Snyder, president of Local 138, the Flour and Bakery Drivers' Union. When Billy Snyder arrived, he was greeted by his friend, Wolfie Goldis, the racketeering vice-president of the union. The men around the table were displeased with Snyder. He had been refusing to follow orders from the mob.

'Toward ten o'clock, as the conference droned on, a figure appeared in the restaurant and advanced out of the darkness toward the conference tables. He raised a pistol and shot Billy Snyder in the back. Snyder sprang up, glanced at the gunman, and wheeled around. The assassin fired twice again. One shot went wild. But the second shot found its mark, ripping from back to front through his vitals.

'The killer calmly walked out of the restaurant, jumped into a car waiting with engine running, and made his escape. Billy Snyder was taken to the hospital by his good friend, Max Silverman. The trigger job had been bungled; Snyder lingered two whole days before he died.

'The police promptly questioned the men at the conference. They failed to identify the assassin. They said they had dived under the table at the first shot, and had not seen his face. The police traced the getaway car, through its license plate. It had been rented that night by a young man named Tratner, whom they found at his home.

'Tratner readily admitted that he had rented the car with money given him by Morris Goldis. And when the picture of Morris Goldis was taken from the police files, two witnesses from the restaurant recognized it as a picture of the man who had walked out of the banquet room, gun in hand, and made his escape in the getaway car.

'But something strange happened to the two witnesses who had identified Morris Goldis as the trigger man. When they were taken to look at him in the flesh, they refused to identify him. Something strange had happened to Sam Tratner as well. When all the witnesses were brought publicly into the Homicide Court, before the cold eyes of the mobsters, Tratner's testimony bore little resemblance to what he had said before. He denied having rented the getaway car for Morris Goldis, and made up a feeble tale that he did this favor for some person who never existed. Morris Goldis was turned loose.

'The racket went marching on. Wolfie Goldis was elected president of the union, succeeding Billy Snyder; and Wolfie put his brother Morris on the union payroll.'

A letter was sent to the District Attorney's office offering to identify the murderer. The letter was ignored, but Tratner and Goldis secured a lawyer, who was no less a personage than an Assistant Attorney General of the state, Charles A. Schneider, under whose guidance his clients were surrendered and released. Then the matter was completely dropped until Dewey brought it back to the light of day with a devastating effect on Attorney Schneider as well as his clients.

## NAMES THAT SPELLED 'RACKET'

But to return to the dark days of the groping investigation. As Ten Eyck studied the files on the murder, he had been struck by the presence there of Max Silverman, who was known to be one of the chief aides of Lepke and Gurrah. These names spelled Racket. The close association around a dinner table of employers and employees indicated a Double Racket.

Files in the Bronx police records were found: and they showed that, back in 1931, a flour truckmen's association had been accused of extortion from bakers and Lepke had been indicted along with William Snyder, Daniel Richter, and Matthew Cantwell.

Lepke and Gurrah were always famous sprinters from appearances in court. Their early experiences with judges and wardens had made them allergic to public trials. At the first hint of prosecution in the Bronx, Lepke had vanished, as had Cantwell. They were never tried. Snyder and Richter faced the judge and secured an acquittal.

But it had been testified that Lepke had said of the flour and bakery racket: 'It means a lot of money, maybe millions of dollars. In the flour industry, we've already got the jobbers and the truckmen. The next will be the bakers. We are going to make a big thing of it.'

The vision of that rich harvest brought Lepke back to town. Dewey described his progress in a later address:

'Public notice was served that an industry was about to be taken over. That promise was fulfilled. The gorillas invaded a labor union of drivers, Local 138, in the flour-trucking field and gave orders. Strikes were called when they gave the orders, and were called off only after the business men had paid a large extortion. Rights of the workers were ignored. The gangsters set up a trade association with lawyers and front-men.

'The members of the labor union never had a chance, and no employer had a chance. The price of flour-trucking went up. Employers were forced to pay shakedowns of over a million dollars. The mob added the pastry and pie divisions

of the baking industry to the racket and then gradually gained control of every factor in the City of New York in flour-trucking and in making bread, pastry, rolls, cakes and pies. Every citizen of New York paid the price and every business man and every worker in the field felt the terror and knew that he was helpless.

'Why did he know that he was helpless? Because he knew that the politically controlled District Attorney of New York County would not, dare not, and could not lift a finger. He knew that a murder had been committed with impunity, and the brother of the man arrested for the crime had succeeded the murdered man as the subordinate of the gangsters. He knew that Max Silverman, the general in charge for Lepke and Gurrah, lived in luxury in Sea Gate, Coney Island.

'For ten years Lepke and Gurrah had been the greatest industrial racketeers in New York. For twenty years they and their predecessors had gone uninvestigated and untouched.'

Such was the state of affairs when Dewey was appointed as Special Prosecutor 'to do the job the District Attorney had failed to do.' The flour-trucking and bakery racket was one of the first he tackled. But such was the terror of the victims that it took almost two years to break it.

#### MAX SILVERMAN LEAVES HOME

Letters sent into the office and a few bits of luck in securing testimony from a truck-owner who was sick of submission gave Ten Eyck evidence that proved Silverman to be the organizer and boss of the combined group of truck-owners and truck-drivers, and also the terrorist of the bakers and the small and very numerous manufacturers of pie and pastry and the drivers of their small delivery trucks. Silverman had driven one pastryman out of business by burning his trucks, and the rest had concluded that New York City was no longer the land of the free or the home of the brave.

After prolonged and often vain quest for witnesses and the

toilsome accumulation of evidence, subpoenas were issued and the books of the Flour Truckmen's Association seized. The mere seizure frightened Max Silverman into flight. His home in Sea Gate knew him no more.

By now Ten Eyck was convinced that Snyder had been murdered by Morris Goldis and that his brother Wolfie and Sam Schorr and Max Silverman were all accessories. Max Silverman was lost in obscurity, but the rest were under indictments for conspiracy to dominate the baking business. Taking one case at a time, the prosecution was finally ready in 1937, but the key witness against one defendant adroitly managed to be out of town during the trial and that defendant had the rare distinction among Dewey prisoners of being acquitted. But Wolfie Goldis, Sam Schorr, Silverman's son Harold, and Benjamin Spivack, attorney for the Flour Truckmen's Association, were found guilty. Harold Silverman's conviction later was reversed by the Court of Appeals, but he was held for trial along with Lepke and Gurrah, Max Silverman, and several others on a series of extortion charges in the bakery racket.

The Goldis brothers and Schorr feared that their troubles were not to end with a mere penalty for conspiracy, and that a further trial for murder was being prepared for them. They learned, too, that Max Rubin, an associate of theirs and Silverman's, had been persuaded to talk to Dewey's men, and tell all he knew, which was much. This put Max Rubin into danger as great as theirs, but he refused the body-guard offered him, and had the melancholy distinction of being the first of Dewey's witnesses to come to harm. He was shot down, but he lived. There will be more of him in later pages, more of the Goldis brothers, and Max Silverman, and of the prosecutions that led William Snyder's mother to feel that the blood of her murdered son had not cried from the ground in vain.

But the flour truckmen were free of terrorism now. Lepke and Gurrah were under double indictment on their operations of the garment racket and the bakery racket. The union of truck-drivers had lost its president Snyder, but his successor Wolfie Goldis was absent in prison. The bakers

and the piemen were relieved of their humiliation and perilous dictatorship. They were relieved, too, of the ruinous drain of extortion by merciless gangsters.

Lepke and Gurrah, now exerting their crippled powers by remote control, were only two of the mob of mobsters. Vicious as they were and versatile in their viciousness, they had jealous contestants for their pride of shame.



## Chapter XII • THE RESTAURANT RACKET—AND BENNY GOTTESMAN

MUCH greater than the flour and bakery rackets was the restaurant racket, which Dewey considered the most far-reaching of all, and the most difficult to overthrow. This was the work of Dutch Schultz, Jules Martin, and their pack, who lived for a long time like princes on their extortions.

In the discovery and destruction of the restaurant racket, as in the bakery case, an important part was played by the investigation of a murder and the inability of the authorities to follow up the results of police investigation. What they had dropped and left as an unsolved mystery was eventually solved by Dewey's office, even though it was outside Dewey's jurisdiction. This was the peculiarly ugly murder by Dutch Schultz of his chief aide, Jules Martin, in the very presence of his lawyer, Dixie Davis.

Dutch Schultz and Dixie Davis were more closely connected with the policy racket, but in the study of the murder of Jules Martin, additional evidence on the three-year-old restaurant racket came to light.

Jules Martin was a strange creature of Russian extraction. His real name was Mogilewsky, and he was said to have cherished a dream of going back to Russia as Commissar of Transportation. It amused his friends to call him 'Commissar,' but he was usually 'Julie,' though he was a big fellow, weighing some two hundred pounds, and a born gangster.

In 1932 he had opened a restaurant in West Forty-Sixth Street, not to feed the public profitably, but to serve as a convenient front and meeting place for his gangster asso-

ciates. Two of his employees were Aladar Retek and Charles Baum. A frequent visitor was Paul N. Coulcher, a Montenegrin by birth, and a waiter by trade.

Dutch Schultz dropped in now and then, and in their conversations the idea grew that there was a fallow field for racketeering in the restaurants. They foresaw that the repeal of Prohibition was inevitable and meant the end of their illicit liquor empire. They were already beginning to take over the enormous democracy of the policy racket. The restaurant field looked promising. They decided to move in.

Local 16 of the Waiters' Union covered the district above Fourteenth Street, including Times Square. It seemed to be a good place for the entering wedge, and Coulcher took charge of its next election with such zeal that the count of the ballot showed thirty-two more votes than the total number of members.

The union was still free enough to laugh and protest at this and call for a new election. On this occasion Jules Martin's henchmen stood by the ballot box with weapons concealed, and the members were so cowed that they meekly elected Baum president, Coulcher secretary-treasurer, and Retek delegate.

There was a union of cafeteria workers, Local 302, and Dutch Schultz's agents, headed by Martin and Sam Krantz, took this over, bringing the officers, Pincus, Williams, and Epstein, into the ranks of the mob and combining Local 302 into the racket with Local 16.

With these unions in his pocket, Jules Martin in person called on two or three owners of restaurants and cafeterias in Times Square and announced that he controlled the unions and would start trouble in the form of strikes and picket lines, unless they paid him a fee for peace. If they did, they would not have to raise wages, and they would have no trouble.

There was such prompt submission that the gangster adopted a pattern for future procedure. Martin and Krantz engaged Louis Beitcher to act as their collector and make the rounds of the other owners of restaurants and cafeterias.

The average scale of pay for a waiter was six dollars a week. The rest of his money he secured from tips, which might run

to thirty or forty dollars a week. Beitcher told his victims among the restaurant owners that he represented the two unions, and would insist on doubling a waiter's wage to twelve dollars or even fifteen dollars a week, which the proprietors could not pay in competition with rivals paying only six dollars. But the proprietors were told that if they paid the shakedown, the scale of wages would remain at six dollars.

As soon as an owner submitted and paid the tax, Coulcher or Retek would call with a contract guaranteeing that the wages need not be raised above six dollars. Thus the members of the waiters' unions were mulcted of their idle time and their dues, with no improvement of wages or conditions. They were used merely as clubs for blackmailing owners into fattening the purses of the racketeers.

Many of the owners refused to submit. Promptly their waiters were forced by the Schultz-installed leaders to make life miserable for the customers, or to walk out at mealtime. Picket lines on the sidewalk warned the hungry public that the owners were unfair and miserly.

#### STENCH BOMBS

After a day or two Beitcher would drop in again and say: 'I see you've got a strike on, and pickets outside. I hear talk of stench bombs coming along. Slip me so much cash and your troubles are over, your men come back at six dollars, and you will have no further worry.'

The habit of so-called American independence was still so strong in some owners that they ordered Beitcher to get out and mind his own business. He did both.

The next day, the chauffeur of Samuel Krantz, William Kramer, called 'Mully,' would probably drop in, order a cup of coffee, plant a bomb under a table, step on it, and walk out. Or he would merely step inside the door and toss the bomb among the patrons.

The result was appalling. It was described by William B. Herlands in his speech at the opening of the trial when, after endless investigation, the case finally reached the court. He told of the many ways by which restaurant owners could be coerced with a stench bomb as the last resort:

'A stench bomb generally consists of valerian or butyric acid and it has a very, very offensive odor which gets into the concrete and the wood of the tables, gets into the plumbing, into the carpets, into the draperies; it cannot be got out for months and months. Of all places in the world a restaurant or cafeteria is where you don't want to have offensive odors. The mere threat of a stench bomb was peculiarly effective.'

Once, Mully Kramer climbed to the roof of a restaurant, dropped a stench bomb down the chimney into the kitchen and stuffed the chimney. This was in the attack on Hyman Gross, who had invested one hundred thousand dollars in the Gerard Cafeteria. He refused invitations to pay the tax and would not be coerced by threats of 'smelly perfume.' He paid a high price for his self-respect; he had to close his cafeteria and lost his hundred thousand dollars. His only satisfaction was the testimony he gave for Dewey when the time came at last. He was an example of the few employers who preferred breaking to bending.

There was a labor leader of equal courage who did honor to his office. This was Benjamin Gottesman, head of the Waiters' Union, Local 1, which covered the region below Fourteenth Street. Martin, Coulcher, Krantz, and Beitcher invited him to join their racket and showed him how profitable they could make it for him. When he refused their bribery, they tried threats, but with no more success. Dewey never ceased to praise him for his valor in obscurity. 'He was the only man in the City of New York who came to my office to give testimony without a subpoena. I have never seen another man who had the guts that Benny Gottesman had.'

Dewey never made public utterances about his cases until they were cleaned up, but in his political campaign of 1937, he could tell of Gottesman's brave moments in an address he made to an audience of waiters. He described how Martin offered Gottesman both bribes of wealth and threats of murder; how Coulcher told Gottesman to fix his books and get rich — or 'be found dead.' Gottesman answered, 'I can't fix my books, because I'm elected by the workers of my union. And I won't.'

The mobsters didn't know what to do about a man who would not take money. They didn't believe he was human. They put a picket line on one of the restaurants in Gottesman's union, then offered him a bribe with marked bills, hoping to ruin him with his union. But Gottesman could not be terrified or tricked. Over the radio on a Sunday night of September, 1937, Dewey told more of his story; and the Sabbath was an appropriate day for a sermon so significant of the unholy conditions and of one man's sacred fire of courage. The account is eloquent also of Dewey's own character:

#### A MAN WHO WOULD NOT TAKE MONEY

'Benny is a thin, middle-aged family man. He peers at the world through thick glasses. Life to him has meant hard work, his wife, three children, a movie now and then — and his union. For Benny is a waiter. And the job of improving the lot of his fellow workers in Waiters' Union Local Number One has been Benny's chief object in life.

'It has always been a mystery to me how Benny Gottesman stood up against the Dutch Schultz mob. But he did, and the story is truly an heroic tale. He went to the office of the District Attorney of that time. He was promised help. But none came. In 1934 there was a new District Attorney. Benny went to see him three times. Again he was promised help. But none came.'

While Dewey was investigating this enterprise with the help of Gottesman's testimony, he had to save his witness from the gangsters. 'For five long months Benny Gottesman didn't work. God knows how he lived. For five months he begged and he borrowed. For five months he gave up the right to earn a living and submitted with a smile. He had a policeman in his household and with him every hour of the day and night.'

Though Schultz and Martin failed to add Gottesman's Local 1 to their Locals 16 and 302, they began to look higher and wider. About August, 1933, they had an inspiration. They decided to organize the employers into 'The Metro-

politan Restaurant and Cafeteria Association.' They would impose an initiation fee of two hundred and fifty dollars on every restaurant or cafeteria and dues of five dollars a week.

Thus, a man who had four branches would pay an initiation fee of one thousand dollars and twenty dollars a week. By now the owners were so terrified that they dared not even remind Beitcher that he had long since guaranteed them perpetual peace, and collected for it.

One unfortunately prosperous victim was William Lowenstein, who owned two chains of restaurants, the Wil-low and Stewart's, forty-two in all. He was forced to pay a shake-down of \$5000, then a series of further extortions amounting in all to \$25,000, as well as \$10,500 in initiation fees and a whole year's dues in advance or  $52 \times 42 \times \$5$  — a total of over \$45,000. Other owners paid proportionately.

The Metropolitan opened offices at 1819 Broadway, with a former silk salesman, Philip Grossel, in charge as front-man, and a lawyer, Harry Vogelstein, to attend to the legal details. Another lawyer, Abraham Cohen, drew up a non-coercion affidavit, which each of the owners was forced to execute. It stated with every device of legal phraseology that there never had been a hint of coercion in his membership, and that he had been glad to join of his own free will. As Dewey said later:

'These conditions were no secret. Articles exposing them were published by liberal leaders and friends of labor. Protests were made at the international conventions of the unions involved. Yet such had become the power of the mob that every effort, even to raise the question, was defeated. Protected shops became a city-wide scandal. From the dues of the workers of the two waiters' unions, thousands of dollars were taken out by the mob for their private profit. From the restaurant industry more than a million dollars was extorted while the workers were also betrayed.'

So openly powerful had the rulers of the racket become that public honors were being heaped upon them. The president of the cafeteria union was international vice-president. The secretary-treasurer of the restaurant owners' union was active in machine politics. To quote Dewey again:

'Coulcher addressed the NRA hearings in Washington and was appointed to an NRA board. He became a familiar figure at Albany year after year, advocating legislation. Large public dinners were tendered to him.

'His racket never entered into the police statistics during its lifetime. It existed without a single overt act ever getting into the press. During the course of this racket, Jules Martin and Dutch Schultz were both murdered for other causes. But the racket proceeded without the interruption of a single day, and other and even more vicious men succeeded to its control.

'Take no comfort from the murder of one racketeer; it means only that another more dangerous one has taken his place. Take no comfort from the absence of statistics or public information concerning a racket; it is the more dangerous when it keeps out of the police station and the press.'

According to the grand jury's own report, hundreds of restaurant and cafeteria owners were under criminal domination and the membership of thousands on thousands of workers in the two captured unions was similarly robbed and misused.

The strange silence in which the restaurant racket prospered explains why it was only by a stranger series of accidents that its inner history came to be discovered and exposed when Dewey — to use the racketeer's own term — took over.

## Chapter XIII • SETTING THE LABOR UNIONS FREE

GREAT gilded plaques and chromium-plated copper plaques had begun to glow in the front windows of New York restaurants in 1933. The legend on them announced that the proprietors were members of the Metropolitan Restaurant and Cafeteria Association. Passers-by must have assumed that the plaques were emblems of some kind of merit, enlarged gold medals, showing as they did the American eagle proudly spreading his wings above two gentlemen clasping hands. Beneath their feet was a motto, 'United We Stand.' Above the eagle was a glimpse of the majestic towers of New York.

Who could have suspected that all this blazonry was really a confession, almost a proclamation of shameful surrender to a band of cutpurses quite willing to be cutthroats?

A dictatorship from below was gaining national control and at the very time when the country was struggling frantically to escape from the sloughs of depression and recession without surrendering all its political power to monopolistic idealists from overhead.

Those gaudy gold plaques attracted just a little too much attention. When the big body of their manufacturer, Jules Martin, with its many knife gashes added to the fatal bullet wound, was found in the dirty snow outside Troy, it was identified by its fingerprints. A visit to his office at 1819 Broadway disclosed bills for letterheads for the Metropolitan Restaurant and Cafeteria Association and bills for the gold plaques as well as for photographs of restaurant owners who had signed contracts with the racketeers.



These plaques were manufactured in Elkhart, Indiana, where Jules Martin had a factory and manufactured new automobiles out of second-hand parts of old ones. There was also a memorandum among his papers — ‘Call up Jimmie Hines.’

When those facts fell into the hands of William B. Herlands, one of Dewey’s chief aides, he went with Detective Grafenecker to Elkhart. There they found the man who had designed and made the gold plaques; learned that while Martin ordered them and paid for them, they were shipped direct to the Metropolitan Association.

#### THE GILDED PLAQUES

They found that Coulcher and Retek, who pretended to be respectable union men, had visited Elkhart, spent the night with the gangster Martin, and advised changes in the drawings for the plaques. These discoveries proved that Coulcher was tied in with both the labor union and the Metropolitan, and that both organizations were combined into a racket. The false fronts of both the employers’ association and of the labor union were thus ripped off. Herlands found that the photographs of restaurant owners signing contracts with the Metropolitan were being enlarged here by the gangsters and shipped to the waiters’ union, to which Jules Martin had also been selling his own reconstructed automobiles.

All these details clamped the dead Martin in with the apparently reputable association of employers, as well as with the labor union.

From then on the investigation proceeded for fourteen months of most complex and arduous toil. Careful estimates proved that about ninety per cent of the best-known restaurants in New York had knuckled down to the racket. It controlled every kind of eating place except a few like the Childs, the Schrafft, and the Bickford chains, and the hotels. The racketeers were about to work on these when Dewey intervened.

Among the captured photographs were two of Jack

Dempsey, now a restaurant owner, shaking hands, and signing his contract with two of the smiling racketeers, Coulcher and Grossel. They had not molested that popular idol, but had used his famous features for 'window-dressing.' Still he had had to pay an initiation fee and the regular two hundred and fifty dollars a year dues, and his manager later told of a huge shakedown.

When Dewey's office moved to the rescue of both employers and employees, the racketeers made threats that kept their victims in fear of death. When Herlands and other aides interviewed them, they told pathetic lies. When he asked for their records, they refused to deliver them, or sent him falsified books, full of erasures which violet light brought into the clear, full of false entries like 'Hold up,' 'Professional services,' 'Labor trouble.' One Greek wrote 'Craft' for 'Graft.' But when the books were turned over to Dewey's mathematical sleuth, A. J. Gutreich, it took more than false entries to deceive him, and explanations were embarrassing.

One elderly family man, almost notoriously devoted to his wife, was so hard pushed to explain certain large disguised payments to gangsters that he alleged a mistress on whom he lavished diamonds, mink coats, and an expensive apartment. When he broke at last, he confessed that the concubine was entirely a creature of his imagination!

Another whose cafeteria was paying him no more than forty dollars a week profit had paid the gangsters three thousand dollars, which he borrowed at cruel cost. He pretended that he had lost the money in crap games, but when Herlands gave him a pair of dice for demonstration, he could not even roll them. Another explained an item of four thousand dollars as 'expenses' for the birth of his latest child.

But like a life-guard resolved to save a frantic drowning man, Dewey refused to let the victims perish of their own helplessness or hysteria. He began to treat them sternly for their own salvation, in order that he might treat the racketeers more roughly still.

One cafeteria owner, Abraham Finkel, was a conspicuous martyr. He stood behind his own counter, but he had to pay his two hundred and fifty dollars initiation fees into the

racket's own association and thirty dollars in advance dues. Yet this served only to give him the right to pay also at the same time fifteen hundred dollars to avert a threatened 'strike.' He was scared into borrowing it rather than have his place picketed or filled with stinking fumes. He was so scared that he frankly entered the money in his books as 'Association dues.'

### 'ASSOCIATION DUES'

Here was the written word Dewey needed. But Finkel was warned by one of the gangsters' lawyers, Abraham Cohen, that he must deny the written testimony of his own books — *or else*. So poor Finkel went before the grand jury five times and glibly told the most unconvincing nonsense. He was honored by being the first witness sentenced to jail for giving false answers to a grand jury. His case was carried to the Court of Appeals, which affirmed the sentence. Only then did Finkel consent to tell the truth.

In the Finkel case Dewey broke new ground of the most technical and vital kind in the law affecting criminal justice. He had established an invaluable precedent and he could use it against his other witnesses. This new ruling of the highest court proclaimed that 'witnesses may not comfortably disclaim knowledge of crime when they have such knowledge and thus obstruct justice. Witnesses may no longer choose whether it is convenient or profitable for them to keep silent and leave the burden of good citizenship to others.'

And now, after fourteen months of hard labor by four lawyers, three accountants, and ten police detectives, Dewey indicted thirteen defendants, two lawyers, six labor leaders, and five gangsters, of whom three were in full flight. The indictment named the dead Schultz and Martin and two dead labor leaders as co-conspirators.

The general public had another confirmation of its high hopes, but there was a different note from some of the labor ranks. While the investigation was still secret, efforts had been made to discredit it. Local 302 had passed resolutions

demanding that Dewey 'cease his vicious attacks on the unions.' This might have been expected considering its management. And the same spirit was understandable when Local 302 held a meeting to protest against the persecution of its officers by wicked employers. The meeting was crowded, hundreds were standing, resolutions of righteous indignation were passed with loud unanimity.

Two days after the indictments were published, the Communist *Daily Worker* resorted to headlines denouncing Dewey, and scenting an 'anti-union drive behind the racketeering charge.' It called on labor to 'prevent the enemies of labor from utilizing these indictments to discredit and besmirch labor in general.'

This was a popular note to strike, though Dewey had always been a friend of organized labor and a believer in collective bargaining. He had declared his faith again and again, and proclaimed what he proved: that the most dangerous enemies of labor were gangsters who had wormed their way into the ranks and had stolen whole unions to use them for the oppression of the members.

The Electrical Workers' Union held a mass meeting and booed his name. A building trades union meeting scored Dewey unmercifully. A number of labor leaders announced that they would demand of Governor Lehman the quashing of all Dewey's probes. Union protests began to flood Albany, warning both the Governor and the legislature that Dewey was bent on wrecking organized labor.

A labor writer, Bryce Oliver, wrote: 'I like "Tom" Dewey personally, but he is shown up as a dupe and a tool. The investigation is an overt attempt of the industrialists to smash the successful unions, first in New York City, and then spread its warfare against the larger trade unions.'

Dewey was plastered with the union label 'Labor-Hater Number One.' He never answered these charges, but took the beatings in silence, knowing that the outcome would prove the falsity of the accusations.

Encouraged to find one man willing to assail the criminal elements in the labor unions, the officers of a shipping company publicly demanded that Dewey's office should intervene

in a strike that was paralyzing their business. But he refused to take any part in it, since there was no evidence of racketeering. He said: 'Bona fide disputes arising from an effort to improve the conditions of men working in any industry are under no circumstances any part of the purpose of this investigation.'

The trial of the restaurant racketeers was set for November 23; but, at the request of defense counsel, dismayed by the mountainous evidence, it was put off until January 14, 1937. While awaiting that date the office business went on with its quiet work along many lines, and Dewey made twenty-one simultaneous raids in a seizure of the books of the salvaged brick industry.

A recently developed monopoly had raised prices in that field so that the expenses of the city housing projects alone were jacked up by \$170,000 a month. To confirm the monopoly, the trucks of independents had been destroyed and ten salvage firms forced out of business. A truck-drivers' union was active in this monopoly. But the prestige of Dewey's office was by this time so well established that his mere act of subpoenaing all the books brought about the instant collapse of the racket.

In December, Louis Beitcher, who had fled from the restaurant indictments, was captured and held in \$150,000 bail. Sam Krantz and two others still eluded capture. On December 29, Max Pincus, vice-president of the Waiters' Union, one of the leaders indicted, jumped out of a fifth-story window to his death.

The greatest industrial racket yet broken and the most difficult of all Dewey's objectives thus far attained was now at the bar of justice.

As the Luciano trial had been prefaced by the sudden guilty plea of three defendants, so now Louis Beitcher, the aide to Martin and Krantz, confessed that the charges against him were true.

Before the jury was empaneled, the defense attacked, of course, the constitutionality of the joinder indictment, and vainly assailed the whole trial as a mere 'war on labor.'

‘DEWEY NAMES HINES’

Strangely startling to the press was a simple question Dewey asked of the jurymen on the panel: ‘Do you know James J. Hines?’

The newspapers sprang into headlines.

‘Dewey Names Hines!’

They published Hines’s picture and later published Max Gottfried’s allegation that Hines was behind the restaurant ring.

Always making use of his aides as far as possible, and well aware of the ability of William B. Herlands, Dewey delegated to him the trial of this his most important racket. Having spent a week in court in the dreary task of selecting the jury, Dewey returned to his desk to supervise the other work of the office. Herlands was assisted by Milton Schilback and Charles D. Breitel.

To clear the decks, Herlands dismissed a hundred of the witnesses he had subpoenaed. But he had enough left. Forty café owners in succession told of yielding to extortion. One said he had paid \$4000 to the Schultz gang and was to have paid \$2000 more, had not Dewey saved him in the nick of time. Two said they had paid \$19,000 in fear of their lives. Benny Gottesman, Gottfried, and other leaders of Local 1, and some of the workers gave an enormous mass of testimony.

One of the defendants, Charles Baum, fell very ill and appealed for mercy. Dewey consented to a mistrial in his case and dropped him. Whereupon the defense counsel insisted on a mistrial. But Judge McCook was not easily cowed by the word ‘mistrial.’ He failed to agree that the illness of one proved the innocence of all, and the testimony continued.

Herlands rested his case on February 19 and the defense took over its shabby task. Dewey returned to court to conduct the cross-examination of the defense witnesses.

One of the defendants protested that he had been himself the victim of terrorism and had fled with his wife from a gangster threat to cut off his ears. His wife had kept a diary and it was used to prove how they motored from place to

place in terror of their lives, and in poverty, seeking both escape from torture and a livelihood. But Dewey with smiling geniality used the diary to elicit from the unsuspecting wife a rapturous description of the flight as a pleasant and leisurely tour of sightseeing and visiting among friends. She purred while Dewey purred. But her husband's lawyer gnashed his teeth in agony, and when the woman left the stand, still smiling, her husband had to be held to keep him from throttling her. Only then did she learn how she had exposed his perjury. What was tragedy to him was high comedy to the lawyers and spectators; and the whole scene was rated as a masterpiece of cross-examination.

More than sixty witnesses in all were called by the defense, and five of the defendants took the stand in their own behalf. The people's case had taken four weeks, the defense's six.

After having ruined the defense, Dewey turned the case back to Herlands for a summation, over which Dewey and others worked till 6 A.M. After one hour of sleep, Herlands began his summation with a tribute to his chief and went on to say: 'This is the first time that a full industrial racket has been presented in a single case. If there is anything that is important to the community today, it is a warning that rackets can be prosecuted and broken. If we cannot get a conviction in this case, there never again will be a like opportunity.'

He took seven hours to recapitulate the results of eighteen months of investigation and ten weeks of trial. The jury took only six hours to reach a verdict finding all seven defendants guilty on every count.

As Judge McCook was distributing their fates to the various prisoners, there was a dramatic interruption when he reached Coulcher. Coulcher had pleaded for mercy because he was simply an ill-paid official of a labor union with no resources and unable even to meet his taxes.

But Dewey brought forward now a café man who handed to the judge a sealed envelope across the flap of which Coulcher had written his name in lieu of a seal, with instructions to keep that envelope in hiding and return it to Coulcher

at once if he were acquitted; or, if convicted, when he came out of prison.

Justice McCook had Coulcher identify his signature, then opened the envelope. He found inside it \$3300 in bills. Dewey said he had reason to believe that Coulcher had deposited at least a dozen such envelopes, though only one of them had been captured. Realizing that this poor labor leader had hidden perhaps \$50,000 looted from his own union and his other dupes, Justice McCook said: 'I don't know what the laboring men and women of the world, who have struggled for a hundred years for their rights, would think if they had witnessed this scene.' He sentenced Coulcher to fifteen to twenty years in the State Prison, the rest to terms of five years or more.

The case was appealed as a matter of routine, and the rear-guard action meant more toil; it was two years and three months later before the convictions were confirmed. But as Dewey said of the final success: 'The law is bigger than money — but only if the law works hard enough.'

At last now, the Locals 16 and 302 came to their senses. They sued Coulcher for embezzlement, and expelled the traitors who had misled them.

The newspapers of the whole nation celebrated the result of the restaurant racket trial as a brilliant triumph, exclaiming, 'Dewey did it!' Cartoonist Rollin Kirby showed him handing to a jailer a large rat trap filled with racketeers. Full credit for their important share in the success was given to twelve policemen, who were promoted with ceremony and official praise for their fine work in the case.

The Hundred Year Association presented to Dewey the annual gold medal it awards to the person who has made the outstanding contribution of the year to the welfare of the city, with the words: 'It has taken plenty of courage and enormous labor.'

And now it was the turn of the poultry racket and the chicken thieves to come into court. They were led by the very ironically titled gangster whom Dewey referred to as "Tootsie" Herbert with his sweet-smelling hair, which made them call him "Tootsie." His record smelled to high heaven; but it was not a sweet smell.



At this busy moment Dewey's personal career received an impulse in a new direction.

After his jailing of the loan sharks, it had been obscurely suggested that he should be made Attorney General of the state. In the midst of the restaurant racket trial, on February 3, 1937, Mayor La Guardia publicly requested Dewey to run for District Attorney.

He had been active in politics since he first reached New York, but from now on the fields of public office were opened to him in all their breadth and height and all the breadth and depth of their quicksands.

## Chapter XIV · POULTRY AND TRUCKS

THE new year 1937 had begun briskly with the arrest of one of New York's most picturesque and pitiless rascals, Tootsie Herbert, the business agent of the Chicken Drivers, Chauffeurs, and Helpers Union, Local 167. With him were collected David Diamondstone, the president, and Harry Frankel, secretary-treasurer of the union and an ex-convict. They were accused of embezzlements and defalcations from their own unions amounting to nearly \$40,000. Tootsie was held in \$25,000 bail, Diamondstone in \$15,000.

Their lawyer stormed that they were 'family men and well respected in their neighborhoods,' but Dewey answered: 'Embezzlement of union funds is a well-recognized and common practice in the operation of industrial rackets. The two major sources of income from racketeering organizations are extortions from business men and embezzlement of union funds.'

'The domination of the poultry industry by Herbert was assured when he procured his election as the business agent of the union for life. There had been only two elections of officers in seven years. By his domination of the Truck Drivers' Union, and his brother's domination of the *Shochtim* Union, Herbert was able to control the entire industry.'

The night after the arrest of Tootsie Herbert and his fellow officers, the city was shaken by an utterly unforeseen assault on the lottery or policy racket. In what was described as a 'midnight sweep through Harlem,' seventy persons connected with the long-established policy game suddenly vanished from their haunts. Among them were eighteen of the nineteen heads of the racket.

This was the most startling of all Dewey's raids and had the most important consequences of all. It was managed in a new, utterly bewildering and almost unbelievable manner.

But Dewey had not loosed his raiders until after eighteen months of secret work by his assistants and detectives; and the fruits were not shaken from the tree for another eighteen months. So perhaps the story had better wait till it is ripe for telling.

Dewey arrests were shaking New York increasingly. The Harlem foray was almost forgotten in the news that he had gone into electricity. Certain electrical contractors fixed prices by collusive bidding and the allocation of both public and private construction jobs. Some of the larger jobs went to one particular contractor or another, the rest refraining from serious bidding against him. Here was a suggestion of monopoly, and Dewey's staff spent thirteen months of secret investigation before attacking it.

Digging into the foundations of all these rackets was slow, tough work, for they were managed with every effort at concealment, and the first suspicion that Dewey's men were asking questions always sent the racketeers into further concealment. The probe into Tootsie Herbert's malefactions had been met by the prompt destruction of all the union's books, except the two latest sets. But Dewey's expert accountants began to reconstruct the lost books by the infinite toil of going through bank accounts and tracing checks for many years. It was a labor comparable to the solution of the riddles of hieroglyphic and cuneiform alphabets. It took a year to procure evidence for the arrest of Tootsie and six months more to make the case ready for trial.

While Dewey was politely but firmly refusing to permit himself to be even considered as a candidate for the District Attorneyship, or diverted in any way from his complex tasks, he was paid a most remarkable tribute. He had been parading past his two grand juries such endless droves of witnesses that on April 2, 1937, both of them implored release from his devastating energies. The jury that had been investigating the poultry racket handed up this weary wail:

'We have now served for more than eight months. It was expected that with two grand juries in session, assigned to the investigation of racketeering, a division of labor would ease the burden of each. As it worked out, however, the ever-increasing number of witnesses produced by the Special Prosecutor's staff made it necessary to remain in almost uninterrupted session. While we would like to continue to play our part in the eradication of organized crime in the County of New York, we must return to our neglected private businesses. . . .

'The growing confidence resulting from the success of the Special Prosecutor is producing gratifying results. Many men victimized for years and mulcted of thousands of dollars, who at first refused to testify, have finally told their stories fully and frankly to the grand jury. . . . We have thought it expedient to take action against recalcitrant and lying witnesses. At the request of the Special Prosecutor we have just directed the filing of an information in Special Sessions charging a dress manufacturer with the crime of perjury in the second degree. We are informed that this is the first such prosecution in the state under the law passed in 1935 allowing the prosecution of this type of perjury as a misdemeanor. . . . The social cost of entrenched racketeering in New York City is staggering. The financial cost is equally great. There is much yet to be done.'

On the same day the other special grand jury made a similar appeal.

The reports closed with high praise for Dewey. Both juries were sent back to their personal interests with the thanks of the judges. Two new juries were promptly empaneled for the many investigations in progress.

After he had exposed the infamous robberies inflicted on the restaurant unions by their own leaders, those unions had cleaned house and admitted that they had been duped and pillaged. As Dewey said later: 'They called me a butcher. They said I was going to ruin the unions. I knew I was a surgeon; but last week, I went back to the union and I find I was a baby doctor. The union, in five months since March of this year, rid of the Dutch Schultz mob, freed from the

control of the gunmen, has increased from 6900 members to 21,000 members. In those same five months, the wages of the union, instead of being diverted by gangsters to shake-downs, have gone to the workers directly from the owners and have increased \$2,100,000 a year.'

#### THE WORKERS KEEP TWO MILLION DOLLARS

In other words, the laborers in the two unions kept two million dollars that otherwise would have gone to their criminal dictators, now in prison. Did other labor unions afflicted with racketeers immediately turn eyes of suspicion on their own leaders? Reason says, Of course! Experience says, Of course not!

The members of Herbert's union had known all too well that, before Tootsie became their business agent in 1923, they had been paying three dollars a month dues and earning a union wage as high as fifty dollars a week. They knew that as a fruit of fourteen years of Tootsie, their union dues had been tripled, yet their wages were less than before. After Dewey had arrested and exposed their misleaders, did the union members call on them to clear themselves of Dewey's appalling accusations? What Voltaire called 'the pale and sickly light of human reason' would inevitably answer, Yes. Experience won again.

Shortly before Tootsie and his indicted associates were brought to trial, they called a mass meeting of the union and received, not scowls and demands for an answer to the charges, but a wild and devoted ovation. As one of the newspapers described it:

More than five hundred truckmen and helpers bolstered the oratory of a score of speakers with a unanimous vote to show up in court and let the jury know that the union 'is one hundred per cent behind our leaders.' They indicated they would gladly raise \$100,000 appeal fund if the defendants should be convicted. Some of the speakers wept. One member shouted: 'If they embezzled all that money, then we'll raise more money for 'em to embezzle.'

Such was their submissiveness under the terror of Tootsie, though it was soon proved that he had been a veritable ghoul, looting even the fund the union had raised to pay the funeral expenses of its dead. The members paid in \$4957 for death benefits, but they only benefited Tootsie.

Before the trial of these fascinating leaders was reached, Dewey took time out to visit Tufts College and accept a degree of Doctor of Laws, the citation reading:

The degree of civilization achieved by a country at any given time may be measured by its laws. Laws fall into two categories, those which expressing community ideals yet lack complete reality because not fully in force, and those which though not less ideal have reality because of their effective application. Social advance may be, and sometimes is, largely achieved because of the effort of a single individual.

Thomas Edmund Dewey, Counsel to the Bar of the State of New York, through whose wisdom, through whose devotion to the duties of his high office, through whose courage, notable progress has been made possible in the enforcement of law and the administration of justice, Doctor of Laws.

A week later his own alma mater, the University of Michigan, made him Master of Laws, just fourteen years after he had earned his Bachelor of Arts there, twelve years after Columbia had made him a Bachelor of Laws.

#### THE GARMENT TRUCKING RACKET

Before the poultry racket case was perfected for trial, Dewey's staff had succeeded in getting ready for court two other groups involved in the garment trucking, and in the bakery rackets. The garment trucking racket was not so huge in extent or in monetary profit as the restaurant and poultry rackets, but it was marked by equal savagery and by the same ghastly inability of the victims to obtain any protection from the officers of the law.

Months later, after the case was all over, Dewey gave a brief account of it:

'Back in 1932 there was a pair of rising gangsters known as James Plumeri, alias Jimmy Doyle, and Dominick Didato,

alias Dick Terry. They had never driven a truck; but they were handy with a knife or a gun. They decided to take over the downtown trucking industry. They started by forming a so-called truckmen's association and electing themselves president and treasurer of this the Five-Borough Truckmen's Association. They were now ready for the business of intimidating truckmen. For front-men and to help with the rough work, they took on Natale Evola and John Dio, or Dioguardi.

'They boasted of their political connections. They enforced their rules by beatings, stench bombs, and the destruction of trucks.

'William Brown was a typical victim. He and his wife ran a small trucking business with three trucks. Brown defied the gangsters, and within three weeks there was emery powder in the crankcase of his best truck. It wrecked the motor. Seven gorillas entered the office one night, threw monkey-wrenches at Brown's brother, and beat him with an axe handle. He was in bed for two weeks. A fellow worker was slugged at the same time.

'One night Brown was listening to the radio and heard a speech by the Police Commissioner, who said racket victims should come in and he would see they were protected. The very next morning Brown was at the Police Commissioner's office, and he was sent at once to tell his story to the grand jury. Indictments for coercion and conspiracy were voted against Dick Terry, Jimmy Doyle, and Johnny Dio. Brown and his wife went home believing they had found justice.

'But the case dragged on for a year with no trial. Finally Brown got a subpoena calling him to the Court of General Sessions for the trial. He handed his subpoena to the clerk and the clerk said, "Why, that's a wrong date on that subpoena; your case was dismissed yesterday." The record shows that dismissal on recommendation of the District Attorney....

'Meanwhile, Didato was murdered by gunmen in the office of his Five-Borough Truckmen's Association. It was a double shooting. When the smoke had cleared away, Didato lay dying on the floor and Doyle was seriously

wounded. But Doyle lived to go on with the racket, a racket immune from prosecution. . . .

'The murder of Didato was just an incident in the growth of the racket. With him out of the way, Johnny Dioguardi and Jimmy Doyle moved uptown. With the Brown indictment still open and hanging fire in the District Attorney's office, they brazenly served notice on the Garment Center Truck Owners' Association. "We are taking over your association."'

When Dewey's staff began a long year of investigation into this racket, they met with the usual terror-choked refusal of victims to testify. In line with his custom of giving his aides full credit, Dewey, long afterward in a radio address, called on Murray Gurfein, one of his chief assistants, to step before the microphone and describe both his experiences and his technique in coaxing the garment truck owners to the witness stand. Gurfein described the problem and the process:

'How were we going to break down the fear of these men who had lived in the midst of terror and who had been afraid to go to the District Attorney's office? My associate, Jack Grumet, and I called them in one by one, tried to sell them confidence. They froze up. "It's all a mistake, Mister," they said.

'Then began a long job of confronting each one of the witnesses with the checks that had been cashed for the gangsters and discovered by us. We then began to play one against the other.

'As they became aware through subtle hints that enough of them had broken secretly for all of them to be safe in testifying together, we called them all in together. Finally the tension eased, the men began to laugh when they realized that each had been afraid to talk because the others might not.

'I met the president privately far away from our office. I saw him looking behind pictures on the wall. I asked him what he was looking for. He said, "Dictaphones." I said, "Forget it. Let's go out and get some coffee." We did. We really got acquainted for the first time. We found that we



were two men who could sit across the table and talk. At last the story came out.... But all that took eighteen months of work.'

The case against Dio, or Dioguardi, and James Plumeri, alias Jimmy Doyle, came to trial on June 2, 1937. William Brown wept as he told how his brother was hauled off his truck and beaten almost to death. Mrs. Brown and other sufferers testified. One of them told how the defendants threatened to cut his ears off and rip his tongue out. Another described a \$15,000 shakedown.

#### SIXTY-NINE OUT OF SEVENTY ARE CONVICTED

After four days of such evidence, Gurfein and Grumet rested the case for the prosecution. Instead of making a defense, Plumeri and Dioguardi suddenly decided to plead guilty on all counts. They were sentenced to State Prison.

The story of the bakery racket has been already recounted. The trial of the leaders began now on June 26 with Chief Assistant Ten Eyck in charge of the prosecution of the five defendants. On July 20, after four weeks of trial, four of the five were found guilty. One was actually acquitted. The newspapers paid Dewey the tribute of an ironical rebuke:

He had convicted only sixty-nine out of seventy tried!

A few days before this verdict, on July 14, one of Dewey's brace of grand juries had sent up a round dozen of indictments in the policy racket, the result of two years' work and the examination of hundreds of witnesses. The leading name was that of J. Richard Davis, known almost affectionately — with that peculiar tenderness people feel for a graceful rascal — as 'Dixie' Davis. He fled.

John Crosson, in the *New York News*, said of him and of this indictment:

The strange immunity of the suave counsellor to the late Dutch Schultz was shattered yesterday by his relentless contemporary, Special Prosecutor Thomas E. Dewey. The glib and personable young Dixie was indicted with eleven others as Schultz's heirs to the \$100,000,000 a year policy racket —

probably the greatest gambling syndicate in the nation's history.

An eight-state alarm was broadcast for Davis and eight co-defendants. One of them, Abraham (Bo) Weinberg, is believed to lie in an unmarked grave.

Bo Weinberg's whereabouts are still an unsolved mystery. The general belief still holds that his body was encased in concrete and dumped in the East River — or, as some say, Bo was rowed out in a boat and compelled to see his feet set in a block of fresh concrete, and to watch the concrete harden, knowing that when it set he would be rolled over into the dark river. Sweet people, these gangsters!

And now Bo Weinberg's brother, George, was prowling about in the hinterlands with Davis and his picturesque companion, Hope Dare. They were now engaged in a double riddle how to secure enough of that vast money they had handled to keep from starving, and how to pay traveling expenses without betraying their whereabouts to the reward-hungry police of the various states.

But their wanderings were in the dark. It was at last Tootsie Herbert's turn to face the public and the Special Prosecutor.

## Chapter XV • TOOTSIE HERBERT

‘ON 160,000,000 pounds of poultry the gangsters extorted a tax of a penny a pound — that is, \$1,600,000.’

It is hard for people outside New York to imagine the immensity of the poultry business there, or its peculiar nature. In addition to the tremendous general consumption of food, special conditions control the feeding of most of the city’s nearly two million Jews — almost half of all the Jews there are in all the Americas. Their religion debars them from poultry and other meats dressed in the Gentile ways. Their live poultry must be handled in kosher shops, of which there are five thousand in New York City, and they must be dressed by rabbinical slaughterers called *Shochtim*.

Fowl prepared in the kosher manner for the New York market total about sixty million a year in number and over two hundred million pounds in weight. Tootsie Herbert’s union, Local 167, handled the trucking for more than three fourths of the kosher slaughterhouses. He also dominated the markets for Gentile consumption of poultry.

An astonishing rogues’ gallery they made, all these racketeers. Their lives were almost more incredible than their names, none more anomalous than that of Tootsie Herbert. It would be impossible to find a more authentic or vivid account than the one Dewey gave in a radio speech delivered on October 17, 1937, long after Tootsie’s trial was over:

‘The head man in the poultry racket had worked his way up from bouncer in a dance-hall to czar of a fifty-million-dollar industry, and levied a tax on every man and woman in New York. This bouncer was no ham-fisted Bowery bruiser. He was a slim, slick-haired fellow who cowed the

noisy with a cold eye or a crippling, unexpected blow. His liking for barber shops and his liberal use of sweet-smelling oils and tonics won him the nickname of "Tootsie."

'At the age of twenty-four, in 1923, Tootsie bullied his way into a job as delegate for the Chicken Drivers' Union. This gave him a chance to study the inner workings of the industry. Soon he took over the union by bringing in a mob of strong-arm men and sluggers. From then on the members never had a chance to choose their own officers. Tootsie chose a convicted thief for his secretary-treasurer and had himself elected for life as the delegate and boss of the union. With that done, it was simple for Tootsie to tear up the constitution and abolish elections.

'While Tootsie was conquering his part of the empire, he struck up a partnership with his old friend and associate, Joe Wiener, an expert safe-cracker, not long out of prison, who was looking for bigger and safer fields. He, too, wanted to stand behind the scenes while front-men did the dirty work. So Joey took over the job of invading the Chicken-Killers' or *Shochtim* Union. And so it came to pass that the ex-bouncer and the safe-blower came to power, back in the year 1927. A legitimate union had been the first step. The industry was next.

'Merchants were told where and with whom they could do business. For that privilege they had to pay one cent a pound on every chicken they sold in New York. With this source of revenue the racket became Big Money. Some of the dealers refused to pay. But not for long. Their trucks and their chicken coops were burned. The home of one was bombed one night, while his wife and child were asleep. Paving-stones were dropped on the truck of another as it went under a bridge, and the truck was wrecked. Quickly, an industry was subdued, as the unions had been.

'All of this, of course, was public property. But the District Attorney did nothing. Finally, the Federal Government itself stepped in. The only thing it could do was to use the anti-trust laws. Sixty-seven out of ninety-nine defendants who had sat through the trial in a specially constructed grandstand were convicted, including Tootsie. Violation of

the anti-trust law is only a misdemeanor, and so, for this, Tootsie served a total of eight weeks in jail. When he got back from his two months' vacation, he and Joey Wiener developed newer and more refined methods. They announced that all the chicken dealers in New York must buy feed from them. They moved in on the Metropolitan Feed Company; made themselves stockholders in the corporation; elected themselves vice-presidents at \$150 a week apiece, and put a president in charge of the office at \$75 a week.

'The chicken dealers soon found that it was safer to buy their feed from the Metropolitan. True enough, the prices of the Metropolitan were about twice those of the old dealers in the business. But it was good insurance and the cost could be passed on to the public. Before long, the old feed companies found they had no customers. They cut their prices; they delivered secretly at night; but they soon folded up one by one.

'Dealers have to have crates, or coops for transporting live chickens to market. A dealer can buy a coop for \$1.65 and use a coop two hundred times. But Tootsie and Joey ordered the poultry dealers to rent coops from them at sixty-five cents a day. This worked out to cost \$130 for a coop, which was worth \$1.65. But it was cheaper to pay than to have your skull fractured, your truck burned, or to have rocks heaved into the driver's cab, or the engine ruined with emery powder.

'Again the Federal Government stepped in. Tootsie got another short vacation of six months.

'By this time he had jacked up his union pay to two hundred dollars a week, and before he went away he ordered his union to keep him on the payroll while he was temporarily absent. His apartment on West Eighty-Sixth Street was richly furnished with the guidance of an interior decorator. When one of his underworld friends sailed for Europe, Tootsie tenderly sent him a sixteen-dollar basket of flowers—paid for by union funds.'

Tootsie's partner, Joey Wiener, also had his gracious moments. When generous James J. Hines, the Tammany leader, made his annual distribution of free turkeys to the poor,

it was generous Joey who gave Hines the turkeys. Hines and Wiener were photographed together among the smiling and grateful poor. As the event disclosed, each reflected on the other equal honor.

#### HOW THE POULTRY RACKET WAS RUN

The reconstruction of the poultry racket books by Gutreich, Rosenblum, and Gelb showed that from time to time Tootsie would order special assessments on all the dues-paying members of his union. These levies ranged from fifteen to fifty dollars. Among these were levies for paying the funeral expenses of dead members. When the fund passed four thousand dollars, Tootsie transferred it to his private bank account. He ordered his men to testify that all their assessments had been given to him to do with as he pleased.

It was not until 1937 that Tootsie's ten years of power and glory ended, with his immunity. Indicted by Dewey's office in January, he was brought to trial in August, and charged this time, not with a misdemeanor but with a felony — grand larceny.

For more than a year, Dewey's assistants had been working on the case. When it came to trial and they began to heap up the evidence day after day, the czar of the poultry industry was so astounded and so crushed that he stopped the trial on August 16, 1937, and pleaded guilty. The other two officers followed his example. Tootsie even turned back to the members of the union twenty-five thousand dollars of the money he had stolen from them. His sentence was a term in State Prison of four to ten years; Diamondstone's from one to five; and Frankel's from one and a half to five.

There was much astonishment when the presiding Justice Pecora, whom a newspaper called 'a one-time Tammany wheel horse,' made this *obiter dictum* while sentencing Tootsie: 'If racketeering is to be stamped out in this community, it will only be through the splendid type of prosecution conducted by Thomas E. Dewey and his associates.'

The Metropolitan Feed Company dissolved and the coop

company reduced its prices to a reasonable figure. The Department of Markets stated that after four years of effort the clean-up of the market scandals, monopolies, cruelties, and atrocities had been accomplished. Commissioner Morgan said: 'I cannot remember in the past year receiving one complaint similar to the hundreds received before. I venture to state that the elimination of the racketeers has effected savings in the neighborhood of \$50,000,000 a year.'

The newspapers announced with amazement that out of seventy-three persons brought to trial, Dewey had convicted all but one!

About this time the poet Berton Braley chanted his achievements in a brief lyric called 'Dues to Dewey':

'Let Dewey do it! And Dewey did.  
Dewey's "magic" was simply that  
He did the job he was working at!  
But do we duly do honor to  
The work of Dewey? We do! We do!'

The public astonishment was more lightly but quite as emphatically revealed in a story Damon Runyon published in his column for August 9, 1937:

A prominent man-about-rackets standing on a corner was approached by a chap with a small black mustache, who said:

'I'd like a word with you.'

'Guilty, Mr. Dewey,' said the racketman in a resigned tone.

'What do you mean "Mr. Dewey"? I'm only looking to make a small touch off you. My name is Smith.'

'The mustache fooled me. Here's a dollar for you. But if you had been Mr. D. the Guilty would still go for me.'

In view of the complete change Dewey had already made in the whole landscape of crime, with several ancient rackets in ruins and threescore and ten of the criminals in prison and scores more in impotent exile, it was not strange that New Yorkers clamored for Dewey to take over the District Attorney's office, of whose inexcusable and inveterate failures for one reason or another he had given such an exposure.

The demand was not so much a desire to reward him with more power as to rescue the endangered La Guardia administration, which was facing a new election.

Mayor La Guardia had owed his first election in 1933 to a civil war in the Democratic Party that enabled him to win with 850,000 votes against a total Democratic vote of nearly 1,200,000 split into two nearly equal parts.

In the 1935 elections La Guardia's enemies had made large gains, and now in 1937 the reunited Democrats had nominated a highly respectable candidate, former Supreme Court Justice Jeremiah T. Mahoney, whose campaign slogan was that La Guardia was a 'Red.'

#### INVITED TO JOIN A DESPERATE CAUSE

But Dewey, being above all things a fact-facer, realized that he was being invited to join a desperate cause. Even the Fusionists were fighting among themselves. As for his own party, the Republicans had not been able to elect a District Attorney for twenty-one years.

In June, 1937, Judge Seabury, Thomas D. Thacher, and Charles C. Burlingham, all eminent members of the bar and sponsors of the Fusion Party, invited Dewey to a conference and urged him to accept a nomination. He gave his reasons against the plan: First, he wanted to complete the investigation, which would take another year; second, after that he wanted to retire to private practice, as his family expenses were growing; third, and most important, he had proved for the first time that the law was really bigger than the underworld and that money could no longer buy out the top criminals; but if he gave up this work and ran for District Attorney, he would be seeking a new post in the worst county in New York, one completely dominated by the same machine for twenty years with never a loss of an office, and if Dewey ran, his practically certain defeat would prove that law enforcement was bad politics and not supported by the people. This would wipe out all that the investigation had accomplished in New York and throughout an awakened and aroused nation.



The three Wise Men from Fusion argued that if Dewey did not run La Guardia would be defeated and the cause of decent city government would be set back twenty years. Dewey promised to support La Guardia, but refused to run.

Next the Republican committee asked him to run. He refused.

The American Labor Party sent representatives to his office to urge him to run. He refused.

The Fusionists nominated a gentleman of no political experience, and the Republicans nominated a member of the Seabury investigation, Irving Ben Cooper. Obviously both would be defeated by a united Tammany.

Dewey went back to his office work which was heavy enough, and intimately concerned with Lepke and Gurrah.

The Federal Government had convicted them of a misdemeanor, the violation of the Sherman Anti-Trust Law in the spring of 1936, but Lepke was released in ten thousand dollars bail, and then his conviction was set aside. Gurrah obtained similarly low bail, which he forfeited, then vanished.

This seemed to paralyze the federal office, but Dewey's aide, Murray Gurfein, secured the indictment of Lepke, Gurrah, and fourteen others for racketeering in the garment trade. Eleven were arrested, but five were fugitives, for Lepke now joined Gurrah in the far unknown.

Dewey persuaded the Board of Estimate to vote rewards of five thousand dollars each for Lepke, Gurrah, and Dixie Davis.

Though the big criminals were not yet captured, their very absence broke their grip on the garment industry, the largest in New York. The indictments were the result of terrific labor for two years by Gurfein and a staff of three.

This success increased the public dismay over the prospect of Tammany's return. The clamor for Dewey increased in press and on platform. He tried in vain to bring Republicans and Fusionists together on one other nominee.

Still the slogan of the day was:

'Draft Dewey!'

## Chapter XVI • NOMINATED FOR DISTRICT ATTORNEY

THE temptations to move into the vast power of the District Attorney's office, clean it up and make it work were all but irresistible. Here was the most important public prosecuting office in the country. It set the tone and standards of public justice for the whole nation of 130,000,000 people. It was a huge administrative office.

On the other hand, Dewey knew the inside of the Republican organization in New York County well, and he knew that the organization was not strong enough to win a campaign against the odds confronting it. It would have to be strengthened. The Fusion machine was also breaking down, he knew. He would have to revitalize its creaking apparatus. He had a natural liking for, and also a lifetime of activity in, practical politics: but this double task, in addition to all his others, gave him pause.

If he abstained from the campaign, Tammany might overwhelm the cause of decent government in America's greatest city. If he could succeed in winning the office, he could wrest from Tammany its most powerful engine of evil, which had not convicted one major racketeer in twenty years. He might put an end to that shameful history he had so berated, of criminals protected, of loan-shark victims, racket victims ignored, rebuked, or actually punished while crime walked wide in gigantic contempt for justice.

To choose was a torment and he had to do his thinking in snatches while his staff heaped old and new problems on his desk, and unfinished business poured down over him in a ceaseless Niagara. He and his wife had many an anxious

conference and finally agreed that it was his duty to attack Tammany in its strongest stronghold.

There was one dramatic night that has not hitherto been described in detail. It was the thirteenth of August, 1937. Midnight was the deadline for the withdrawal of nominees by the regular parties. The Fusion and American Labor Parties, not being regular parties, stood ready to name Dewey if only he would accept. The Republican nominee, Irving Ben Cooper, was eager to step out, but insisted that he would do so only if he could himself designate Dewey as his substitute.

In the evening of the thirteenth, Dewey went to a conference with William M. Chadbourne, Kenneth F. Simpson, and two other Republican leaders. Dewey insisted that if he consented to run he must make his own announcement of his reasons, because there were two other parties involved whose tentative designees were also willing to withdraw in Dewey's favor. It seemed improper to let one nominee nominate Dewey.

The leaders held long telephonic debates with Cooper's friends and it was not until two minutes before midnight that they accepted Dewey's terms, with the modification that Cooper might say he hoped Dewey would run.

Cooper had a representative in the county clerk's office and, at just one minute to twelve, telephoned him to recall his name from the ballots to be printed. Now there was no Republican nominee, though there was a provision for a committee of five to fill vacancies caused by the withdrawal of candidates.

The morning papers had to content themselves with the statement that Cooper had declined with the wish that Dewey would accept. This gave Dewey time to prepare a statement of his reasons for undertaking the campaign, and the afternoon papers of August 14 gave it all their headlines. He said:

As a result of the work of the rackets investigation, it has become clear to me that there is an alliance of long standing between crime and certain elements of Tammany Hall. For twenty years Tammany Hall has controlled criminal prosecu-

tion in this county and for twenty years the power of the criminal underworld has grown. This alliance must be broken.

To one who has studied the newspaper history of Dewey's career, there comes an astonishment at the interest of the entire nation in his activities. Success or failure for him came home to every community; for if he could check the power of corruption in its greatest center, there was hope for the smaller cities, the tiniest villages. In every one of them, corruption flourished according to its opportunities.

The news of Dewey's acceptance of the draft not only shot high in the cross-country headlines on every front page, but it caught the serious attention of every editorial page. The *Boston Transcript* announced a 'Nightmare for Tammany.' The Providence, Rhode Island, *Bulletin* grew prophetic, 'Keep your eye upon this young man, the dreaded foe of the underworld. He is likely to go far in American politics. Another young man some years ago got his start on the way to the presidency fighting crime in New York City, Theodore Roosevelt.'

As soon as he gave out his acceptance of the nomination, Dewey began his drive for success. He spent a week organizing his campaign and secured Millard H. Ellison, a prominent attorney and former Assistant District Attorney under the last Republican District Attorney, as campaign manager, and Hickman Powell, a newspaperman and friend of Dewey, as publicity director. Harold Keller, another newspaperman, now Dewey's secretary, was placed in charge of a research staff. In a short time Dewey had two thousand young men enlisted to work in the thousand election districts of New York County's two million people.

He stirred the leaders of the independent organizations to action and had a citizens' committee and a finance committee organized. Then he went to Cape Cod for eight days of the restlessness that he calls 'rest.'

His opponent, the Tammany nominee, Harold Hastings, on the other hand, went on a long and real vacation after telling the newspapermen that it was all over; he did not have to campaign, since Tammany Hall was his guaranty. He did not return till the end of September.

But Dewey was back in town by the beginning of that month and busy as a beaver. The Fusionists nominated him with jubilation. The Progressive Party nominated him. A pleasant relief from the abuse he had endured as 'Labor-Baiter Number One' was his hearty endorsement by the American Labor Party on September 22. The mention of his name did not now bring on a tornado of boos and hisses, but rousing cheers for the 'true friend of labor.' Some labor elements still held out against him and sided with the Tammany ticket; early in his campaign he made a speech before six thousand members of the Brotherhood of Painters, Decorators, and Paperhangers, who hailed him with enthusiasm.

#### WHAT IS KNOWN AS A WHIRLWIND CAMPAIGN

His was truly what is known as a whirlwind campaign. He spoke ten or twelve times a day to a total of over two hundred thousand people. He spoke on the radio regularly every Sunday night for five weeks, in addition to speeches on the Greek radio hour, the Italian, the Czechoslovakian, and the Russian radio hours. People spoke for him in every language represented in New York's Babel-land.

Men of high degree came out in his support, among them Judge Seabury, a Democrat, whose revelations Dewey had done so much to confirm. From the Democratic Party many other prominent men seceded to Dewey, notably former Justice of the Appellate Court, and former President of the Bar Association, Clarence J. Shearn. He became chairman of the Lawyers' Committee supporting Dewey and issued an appeal to his fellow Democrats, in which he begged them to be 'right rather than regular,' and added:

One factor of influence ought to be what the enemies of society, what the criminals themselves want. Every racketeer, every vice profiteer, every loan shark, gunman, blackmailer, fugitive from justice, crook and convict wants to see Dewey defeated. We all know why. . . .

The District Attorney's office employs sixty-four assistants. These are the men who represent the public in the magistrates' courts, prepare cases for the grand jury, and conduct

the trials in Special and General Sessions. Everything turns upon their special fitness for a very special kind of work. How are they elected? District Attorney Dodge proudly proclaimed on February 9 of this year: 'I won't make any appointment without consulting the leader of the Democratic Party in New York. I am an out-and-out Democrat and a member of Tammany.'

Imagine any large private law office being organized on any such basis! What business man would permit his district leader to select his executives for him? Why should a system, which would not be tolerated in any private business, be foisted upon this vitally important public business?

The American Labor Party notified Dewey of their nomination of him in a huge rally at Carnegie Hall, September 30. He accepted it in a speech in which he said:

'For more than two years now I have sat regularly for days and for nights in conference with leaders of organized labor, many of whom sit upon this platform tonight. These two years of conferences have been devoted to the purpose of making sure that the frontal attack on organized crime should never be of injury to the labor movement....

'I shall never forget the statement of the president of a great international union when he said to me: "Labor has committed itself to the cause of good government in New York. In doing that we have incurred the wrath of the corrupt political machine which has controlled the District Attorney's office for twenty years. If we do not break their control on that office, labor will suffer a four-year war of retribution. Labor will again have to submit to the invasions of gangsters. For the safety of our workers, the office of District Attorney must be saved and you have got to do it."

'And so it is that I have become your candidate.... The workers need no longer accept the crumbs which drop from the table of vote-seeking politicians.... There can be no advance in our industrial society without collective bargaining. There are still business men who regard a picket line as a signal for a criminal investigation. The gangster has been the second obstacle to industrial progress. The racketeer is in no sense part of the labor movement. He is no

more a labor racketeer than a business racketeer. Never again must the criminal underworld be permitted to sit between the employer and worker, extorting from the one and beating down the wages of the other.'

Before a grander grand jury, he displayed a great fire and real platform power, evoking laughter, rage, and wild cheers. He changed his tone for each audience, and swung from the homeliest vernacular to oratorical eloquence.

The radio was Dewey's first problem, and he approached it with his usual caution and preparedness, asking and accepting criticism and coaching, listening to recordings of his voice and taking lessons from them.

His speeches make good reading. They made even better hearing. They are almost the only examples we have of his writings. And they reveal many facets of his personality as he turned them toward the various elements in the conglomeration of voters he must win to himself to save them from themselves.

That grandmother of his, Augusta Corrigan from County Cork, may have whispered in his ear that incongruity we call an 'Irish bull,' for he used one when, on October 4, he explained his candidacy before the *Herald Tribune* Forum at the Waldorf-Astoria Hotel:

'I have entered politics because there is too much politics in the administration of criminal justice.'

He went on: 'No one has yet discovered a Republican or a Democratic or a Labor or a Socialist method for the prosecution of crime. There is certainly no political system for the administration of criminal justice, the protection and reformation of the youthful criminal, the social study of his environment, background, and possibilities of rehabilitation, or the proper administration of his parole.'

#### THE CAPTURE OF SILVERMAN

Unlike the dog in the fable, Dewey did not drop the bone in his teeth for the one in the uncertain water. The work in his office was not neglected. He cancelled half a dozen speaking engagements when he learned of the discovery, in Cali-

ifornia, of Max Silverman, a fugitive for twenty-one months. Dewey had evidence that Lepke and Gurrah had advanced him twenty thousand dollars for expenses in a period of six months while he was 'on the lam.'

The capture of Max Silverman was, in Dewey's opinion, one of the most brilliant pieces of detective work he had ever heard of. His assistant chief investigator, John F. O'Connell, was about to take his vacation on the Pacific coast, when carefully pieced-together evidence indicated that Silverman was hiding there. O'Connell combined business with rest, and soon traced Silverman to the rented Hollywood apartment where he had been living with his wife under the name of Green after a sojourn in Palm Springs. Just as he was about to flee again, he was arrested and held under \$25,000 bail. The Los Angeles *Examiner* of September 25 said:

Reaching across the continent the long arm of Thomas E. Dewey, New York's Nemesis of racketeers, rested on the shoulder of Max Silverman here.

He was brought back by airplane, and while he was still in the air, on the afternoon of October 1, tragedy struck into Dewey's success. Two years before, he had promised safety from gangster threat to anyone who testified for him. This promise had been faithfully kept, but now suddenly one of his important witnesses, Max Rubin, was shot in the back of the head and taken to the hospital in grave danger of death. Rubin was one of the henchmen of Lepke and Gurrah, and had confessed to Dewey's assistants. But he had refused the police protection urged upon him.

Dewey began his next Sunday night radio speech: 'Tonight I am going to talk about murder. . . . The underworld has flung down its challenge. Tonight I accept that challenge.'

The battle was on in deadly earnest, and the whole country was watching Dewey as the leader in a new war of emancipation. He was already a symbol and almost a legend. The playwrights and moving-picture scenarists were giving him the chief rôles in their plots, but always under another name: for he would never authorize any direct commercial exploitation of his personality or his work. On September 27 the first



of several plays based on Dewey's achievements was produced.

Speaking to a meeting of Armenian citizens, Dewey told them how nationally notorious New York was for crime: 'Our city is in the movies now. We've become a scandal so bad it's in the movies. Every day you go and see a gangster movie. You see the victim witness, the waitress, the shop-keeper, the decent citizen, who says, "I'm afraid to testify. I am afraid I will be murdered if I tell the truth." This in an American court! and it's peddled from coast to coast.'

To counteract the portrayal of the success of the rackets, a special motion picture was produced as part of his campaign, with the title, 'Smashing Crime with Dewey.' It showed the workings of the racketeers, but also the break-up of the gangs by the Dewey investigations. Five trucks, with mounted projection machines and screens, toured Manhattan and showed the film to thousands of thrilled spectators on the sidewalks of New York. It was the first time a full-length sound film telling a graphic story had been used in this novel way, and it created great excitement everywhere. A copy of the film is now included among the historic film documents of the Museum of Modern Art in New York.

Meanwhile, his campaign rolled on with increasing momentum. He was speaking everywhere, lauding the Fusion government and begging for the election of the whole ticket to give it complete support in keeping New York from falling back into the clutches of Tammany.

He constantly emphasized the fact that he himself would be only a part of the District Attorney's office, and that his colleagues would no longer be Tammany Hall incompetents or dishonest men foisted on the office so that even a well-intentioned District Attorney was a mere figurehead doomed to failure.

'I don't do the work in my office as Special Prosecutor,' Dewey confessed. 'And no District Attorney does the work in that office. The assistants do the work. The important thing is that there are going to be sixty-four Assistant District Attorneys who don't belong to anybody but the people of New York County.'

He spoke to the Republican women at a luncheon; to the Progressive Party in Cooper Union; to an Italian group in the American Labor Party; to the Negroes, before whom he praised the work of Mrs. Eunice Carter; to the Slavic division of the Dewey Citizens' Committee; to the Non-Partisan Citizens' Committee; to the Young Women's Christian Association at a luncheon where he talked of the problems of childhood, beginning:

#### WHAT A PROSECUTOR THINKS ABOUT

'I suppose people wonder what a prosecutor thinks about when he goes home at night. Time after time at the end of a day's work which involved the prosecution of a person or group of persons for a vicious crime, I have found myself asking questions to which I did not have the answer. They were not questions as to how the crime was committed or how it was detected. That is the business of the day and night work of the office. But rather they were questions asking what it was that brought John Jones, the particular offender, to the bar of justice and what chain of events in his life caused him to become the person he now is. To me, that is a mystery as challenging as any unsolved crime. And nobody knows the solution....

'For every "Big Shot" of crime whom we have convicted, we have dealt with a hundred minor figures. These have constituted one of our major concerns in the past two years. It is clear that an entirely new approach is necessary in the administration of criminal justice.

'We already have that new approach with reference to the children who become what are known as delinquents....

'But what of the second and third offender? What of the young man or woman who has passed beyond the state of juvenile delinquency, but has not become a major offender?'

Such evidence of humane tenderness toward the criminal was something startling in one known as the most ferocious prosecutor on record. He gave an example of his efforts in behalf of second and third offenders in a speech at a Henry Street Settlement dinner when he lauded the life-work of

Lillian Wald. To that eulogy he added a striking character study:

'I want to tell you the story of a man named Louis. He was sent from Central Europe to this country at the age of three by impoverished parents. At the age of seven, Louis was sleeping under boxes in alleys and stealing his food. He did some work as a bus boy, a little work as a waiter when he could find employment. He gambled on the side, but he also continued to steal to make up the difference between what he could earn by working and gambling and what he needed to live on. By the age of sixteen he was caught in one of his thefts and given a six months' sentence. He came out more hardened, more embittered than ever, and he continued to steal and run crap games. When he was eighteen, he was caught again and given another six months' term, and he came out a confirmed member of the criminal underworld.

'For the next fourteen years of his life, he managed to escape jail, although living on the fringe of society, stealing and running a brothel. He took up with the Dutch Schultz mob in 1932 and became a collector at fifty dollars a week — a collector of shakedown money from restaurants. The restaurant men thought he was an important member of the mob and they were in deadly fear of testifying against him.

'Early in our investigation we knew who Louis was and where he was and in two months we might have arrested him, prosecuted him, and sent him to prison. The result would have been that a new fifty-dollar-a-week collector for the Dutch Schultz mob would have been hired on the day of his arrest. The mob would have provided Louis with a lawyer, sent him spending money while he was in prison, and supported his family. The victims who testified against him would have been persecuted and driven from business. The public would have been deceived into thinking that the restaurant racket had been broken because of the prosecution of one front-man.

'We did not make that arrest. Instead, we worked for sixteen months longer, gradually getting the evidence against the entire structure. After a year and a half of investigation, the whole mob was arrested at once. Among them was Louis, the front-man collector.

'Now we knew Louis's history and we knew he was not a big racketeer, but just a collector on a salary. And we told Louis that if he would plead guilty and testify for the people, against the important gangsters who stood behind him and above him, we would help him.

'For the first time in his life, someone showed understanding and kindness for Louis. He accepted our suggestion and broke with all his associations of the past. He testified on the witness stand for thirteen hours and had one of the most grueling cross-examinations I ever witnessed. He told the truth and he helped with the conviction of the important criminals who had stood behind him for those years.

'He was given a suspended sentence and we made it our business to see that he had a new start in life. We saw that members of his family, respectable, decent people, raised the money to send him far from New York and set him up in a new business. A brother-in-law, who was a lawyer, undertook to make sure that Louis went straight. And today at the age of forty-seven Louis is starting life anew. He cannot go back to the underworld, because, even if they did not take vengeance on him, they would never again accept him as one of them.

'For every important criminal we have convicted, there have been a hundred witnesses and victims like Louis. Breaking the fear in their hearts by showing them kindness and understanding, and giving them real protection, has been a major undertaking, but it has brought great dividends in the administration of criminal justice and in the salvaging of wrecked lives and in the elimination of the important, dangerous criminals who employed the little men, the front-men.'

After this conference with gentle spirits intent on preventing crime, Dewey made an excursion to Baltimore to address the annual International Convention of Police Chiefs on the punishment of crime, and his talk was broadcast across the nation.

On his return, he made the most sensational of all his speeches. It came as unexpectedly as an earthquake and brought toppling down one of the most powerful political figures in New York.

## Chapter XVII • CAMPAIGN AND ELECTION

THOSE who listened to Dewey on the radio Sunday evening, October 24, 1937, heard a note of menace in his voice as it lashed out to catch and flay no less a person than a Tammany leader who was also the county clerk of New York. For months Dewey in the line of his duties had been constantly encountering the name of this highly responsible personage in strange association with some of the lowest criminals, prison-spawn, peddlers of narcotics. And now he flung it in the faces of voters whose very votes this man largely controlled:

'Tonight I am going to talk about the alliance between Crime and Politics in the County of New York. I am going to tell you about a politician, a political ally of thieves, pick-pockets, thugs, dope peddlers, and big-shot racketeers: Albert Marinelli, county clerk of New York, powerful leader of half the Second Assembly District, dominates the whole. He attained power by staying in the dark and keeping his mouth shut.

'Tonight we turn on the spotlight.

'The people in the Second Assembly District in downtown New York know what gorillas they have met at the polls, how they have been threatened, how their votes have been stolen; and I am going to tell them how it came about that gangsters roamed their neighborhood immune from prosecution.

'Who is this Albert Marinelli? Officially he is your county clerk. You elected him four years ago. He survived the La Guardia landslide because the people did not take

the trouble to know who was running for county clerk, just as the machine-controlled District Attorney survived, with the help of Marinelli and his boys. . . .

'This shadowy figure gives no interviews to the press. His history is shrouded in mystery. No one even knows just how he rose to power. In 1931 he took over the leadership of the Second Assembly District of Manhattan. Rapidly his influence spread to other districts. In 1935 he put up a handpicked candidate and unseated David Mahoney as leader of half of the First Assembly District. Mahoney charged that two notorious racketeers, Sock Lanza and John Torrio, were active in that election, which led to Marinelli's triumph. Lanza was the gorilla who dominated the Fulton Fish Market for years. Complaints were made to the District Attorney of New York County against Lanza, but they were ignored. . . .

'Mysterious as he may be in New York, Marinelli's supporters may be interested to know that he has a luxurious estate surrounded by an iron fence, on Lake Ronkonkoma, 'way out on Long Island. In 1932, when Marinelli set out to attend the Democratic National Convention in Chicago, there was with him a well-dressed, pasty-faced, sinister man with a drooping right eye. He had an air of quiet authority. Together they turned up in Chicago, playing host in a suite at the Drake Hotel, and were constant companions at the race-track in the afternoons. Marinelli's companion was Charlie Lucky Luciano, then almost as unknown as Marinelli, later revealed as the Number One Man of New York's underworld, master of many rackets. Luciano is now in Dannemora Prison, serving a sentence of thirty to fifty years.

'In January, 1935, the Marinelli Beefsteak Dinner was a colorful affair. Benny Spiller, loan shark for the Luciano mob, bought tickets. So did Jesse Jacobs, the Luciano mob bondsman. So did the bookers and other hangers-on in the prostitution racket. They knew they had better buy, for Davie Betillo was selling tickets — the same "Little Davie" who was a Capone trigger man for five years, and later Lucky Luciano's chief henchman in New York. All of these

boys are now in jail at last, as a result of the prosecution completed last year....

'You are entitled to know the kind of man who helps to pick your public officials, who helps to select those who are in charge of criminal justice.'

#### MARINELLI AND HIS LIEUTENANTS

With devastating thoroughness, Dewey made a catalogue of the deeds of Marinelli and his lieutenants. One of his chairmen of an election board had been arrested for false voting, for bootlegging, had served a term in jail, had been arrested for assault, for dealing in narcotics, had been found with two loaded revolvers under his pillow, and let off with a small fine. And then made chairman of elections!

One of Marinelli's county committeemen had been arrested for selling dope and had served time for grand larceny. Another did his bit in Atlanta as a counterfeiter; and afterward was charged with homicide, but 'beat the rap.'

The catalogue of the county committeemen of the county clerk of New York is too long and too incredible to cite. It reads like a list of pirates meeting on an island on the Spanish Main, not a beadroll of election officials on the island of Manhattan. It piled up almost to burlesque. Yet every accusation had been established with scrupulous care.

'I have police records for thirty-two of them. Twenty of this fine assortment, who have been selected to serve on the county committee or to count votes, have been convicted at least once. The other dozen have thus far succeeded in beating the rap. Their attainments include seventy-six arrests on a varied assortment of charges ranging from robbery to sex crimes, with dope peddlers heading the list.... These are the living obstacles to everything that's decent and clean in the conduct of our city.'

Before making this assault, Dewey had two men working on the record for months. In the preparation of his speech, he worked over their material for twelve hours in company with seven lawyers, two of them experts on libel.

He wanted to protect, not so much himself as the news-

papers, which, he knew, would publish his words and lay themselves open to libel suits unless his charges were thoroughly documented and carefully worded. The charges were deadly, but nobody was sued for libel because of them.

The countless listeners were almost ashamed of living in a city under such domination. As one high Democratic leader listened in at his dinner table, his jaw and his fork dropped, and he gasped: 'I didn't think even Dewey would dare do that.'

The Monday morning papers naturally did not minimize the sensation. Reporters rushed to Marinelli. His only answer was: 'No comment.'

They rushed to the still more powerful James J. Hines. Hines said even less.

The Democratic candidate for Mayor, former Justice Mahoney, was driven to an open desertion of the Tammany ship, though it was his only hope of election.

Dewey publicly dared Marinelli to have his county committeemen fingerprinted and submit the prints. This dare was not taken and the charges were unanswered. The *Evening Post* published an editorial on Tammany called 'Government by Gorilla.'

On Tuesday, October 26, Dewey tossed another grenade at Marinelli and one at another Tammany leader: 'I am still waiting, still waiting to get the rest of his county committee to submit to being fingerprinted, so that we can find out how many more of them are ex-convicts and dope peddlers.'

He went on to say that a census of apartment houses had been taken quietly; his investigators had been checking up on Tammany's usual preparations for victory at the polls. In one apartment house, out of seventy-three registered voters, thirty-one were proved frauds.

He named as the leader of the district in which these floaters were registered an Assistant Attorney General of the State of New York, sworn to uphold the laws of the State of New York, and asked: 'Why is he so desperately anxious to save for the machine the office of District Attorney of New York County? Tomorrow night I will tell you.'

True to his word, on the next night he launched on the



ether a speech, beginning: 'Murder is my subject again tonight — the murder of Billy Snyder in Avenue A.' He went on to give the ghastly story already cited in an earlier chapter.

#### WHO PAID GOLDIS'S LAWYER?

He told how the murderer (who later confessed the crime, after Dewey had caused his indictment) had engaged a lawyer who got him released. Who was that lawyer? Dewey answered his own question:

'Charles A. Schneider, then and now an Assistant Attorney General of the State of New York. Schneider was a powerful politician of the Eighth Assembly District of New York County, and in a few months he became the leader in name as well as in fact.

'Who retained this politician Assistant Attorney General to represent Tratner? Who paid him to represent Morris Goldis? I tell you now he was paid with part of the money collected by racketeers from the flour-trucking industry. I have here in my hand two of the checks by which that money was passed. [They totaled \$2000.] They bear on their backs the endorsement of Charles A. Schneider, who then was, and now is, Assistant Attorney General of the State.

'Now, it's not a crime in the State of New York for an Assistant Attorney General to represent a man accused of murder. But it's a shocking betrayal of the people of New York, and can only be rebuked by the people.

'The newspapers reported yesterday that I would mention Charlie Schneider tonight. I did not indicate what I would say about him. He actually tried to stop this broadcast by threatening to sue the radio station. He made rash and groundless charges. He even made a statement inviting an indictment for subornation of perjury. Tonight we have the picture: the mob murder, the fumbling prosecution, and the profiting politician public official appearing for the defense.'

The next day Schneider announced that he would charge Dewey with criminal libel, and the headline now was:

'Jail Dewey is Tammany Plan.'

But Schneider never pressed that suit. He may have been

discouraged further when he learned that the client he had freed had been under actual indictment for the murder at the time Dewey made his speech. But Dewey, not wishing to use his office for political effect, kept the indictment unknown and unpublished until after the election. This in spite of Dodge's fierce criticism of him for not solving the mystery of the murder before criticizing others.

The final chapters in the stories of Marinelli and Schneider were written after the election, but Dewey's reputation for not speaking till he had the facts and of making his convictions stick had a paralyzing effect on the Tammany supporters.

The revelations strained the credulity, yet filled the general heart with rage and an eagerness to get to the polls.

Ardently as he denounced, Dewey could praise. In the midst of his ferocious onslaughts on public enemies in high places, he interpolated a most unusual glorification of a most humble citizen.

Just a week before election, on the evening of his busy October 26, he attended a banquet in honor of Benny Gottesman. He had already paid tributes to this man and some of them have been quoted, but at the banquet he added to the laurels. He told the story of the restaurant racket and of Benny Gottesman's preference to death to surrender; and went on:

'To me these plain unadorned facts spell an epic of heroism. Without Benny Gottesman's help, I doubt whether we could have made that case by now. With his help a whole industry has been liberated from one of the worst mobs that ever infested the City of New York. Ladies and Gentlemen: I propose a toast — if you will rise. I propose a toast to the greatest hero of the labor movement in the City of New York — Benny Gottesman.'

From time to time his speeches would arouse gales of laughter, bitter laughter, describing Tammany's ancient tricks in the very centers where they had so long prevailed:

'These are the districts that Charlie Schneider and Uncle Albert Marinelli said they owned — body and soul. They al-

ways said at Tammany Headquarters in Fourteenth Street that they could hand out a chicken on Christmas and kid them the rest of the year. They could hand them a chicken on Christmas Day and let them live in cold-water flats the rest of the year, and like it. But what is called for today in our great cities, and particularly in New York, is to drain social and economic swamps and in the main to attack the twin problems of overcongestion and underprivilege in the same straightforward manner. . . .

'Previous administrations in this city have approached this great problem with the time-honored formula of the district clubhouse — of doling out once a year to the less fortunate men, women, and children ice cream and soda-pop at a picnic; or a free walk in Central Park; and in the winter, of sending a bag of coal or a basket of food to shivering people in a ramshackle flat. And they smile smugly as they tell of how they "take care of the poor in the district." No one of them ever cared to inquire into the causes of such conditions, or to raise a hand to better them.'

In Madison Square Garden October 28, at a rally of the Labor Party, there were eighteen thousand people present and great numbers turned away. The Democrats at the Hippodrome on the same night had less than two thousand. Dewey did not keep this a secret from his tumultuous audience.

Meanwhile, his opponent for the office of District Attorney, Harold Hastings, had returned from his vacation and was making many speeches. His meetings were attended by hundreds where Dewey drew thousands. Hastings kept challenging Dewey to a public debate, but the challenge was ignored. Finally Dewey wearily accepted an invitation for a meeting with his adversary at a Hotel Astor luncheon on October 30.

Hastings had claimed to be an expert on indictments and extraditions, had frequently twitted Dewey about being too young to serve as District Attorney. Dewey replied:

'It has been bitterly complained that I am young. I plead guilty. I got a letter this morning that I can't resist reading to you. A gentleman writes to me:

'Dear Mr. Dewey: Being desirous of hearing what those about to die have, in their last throes, to say, I tuned in last night to listen to our distinguished present District Attorney.

'He, like many of his associates, laid great stress upon your youth upon which he gloated as if youth were a heinous crime. It may interest you to know what Sir William Pitt retorted in a similar instance. When only twenty-three he became Chancellor of the Exchequer, and at twenty-four was Prime Minister of England. Being satirized in Parliament anent his tender years, he arose in his place and uttered the following immortal words: "The atrocious crime of being a young man, which the Honorable Gentleman has, with such spirit and decency, charged upon me, I shall neither attempt to palliate nor to deny; but I trust that I may be one of those whose follies will disappear with his youth and not of that number who are ignorant in spite of experience."

Following an ironic retort to Hastings, Dewey apologized suddenly for breaking off the debate: 'One of my fugitives, Pompey, has finally waived extradition in Mexico and is back and I have to arraign him at three o'clock.'

#### A MEETING IN MADISON SQUARE GARDEN

That same night he spoke at a huge Republican meeting in Madison Square Garden. In the tumult of his final three days he had found never a minute to prepare this speech. At a hasty dinner, an idea came to him and he scratched it on a piece of paper. With only that in his hand he faced twenty thousand people. He began by raising a laugh:

'Well, it's all over. All we've got to do is to keep them from stealing the voting machines.... Tonight I salute all of those forces, who for these many years have lived and hoped and struggled for this day when all of the government of New York shall be delivered all at one time to the people of New York....

'The Republican Party, the Fusion Party, the American Labor Party, and the Progressive Party have united in a single great force, representing as they do honest differences of opinion on certain economic and social questions. There

can be — there has been, and there is — no difference of opinion on decency in municipal government. . . .

'The friends of the machine, Jimmy Hines, Charlie Schneider, Billy Solomon, and Uncle Albert Marinelli, want to give you another indictment expert and extradition expert as District Attorney. But they haven't needed an extradition expert for twenty years, because nobody has ever run away from the District Attorney in twenty years.

'For twenty years, there haven't been any gangsters prosecuted, but occasionally the District Attorneys did have a lawsuit. And what did they do? Every time they had a lawsuit they had to go out and hire a lawyer. In 1921 there was an investigation, and they went out and they hired Mr. Samuel Untermyer. . . . They got another case in the office, the City Trust Scandal. They went out and hired another lawyer, Hiram Todd. Along came the Bank of the United States, and that was too tough for them. So they had to hire Max Steuer to do the work of the District Attorney. The next case they got was the mortgage collapse. Jimmy Hines's boys and Al Marinelli's boys didn't understand that kind of financial matter. So they had to hire a lawyer again. . . . Finally . . . when the racketeers were running all over the city, the Governor hired a Special Prosecutor.

'I propose to be the last of that line of people who have to be hired outside the office to do the work of the District Attorney of New York County. The people have, in my opinion, decided to hire their own lawyer for the first time in twenty years. And I have undertaken to accept the job.'

On Monday night, the eve of election, he made his last appeal over the radio:

'Election eve is a night for calm study. Every voter is a member of the jury of public opinion. Before going to bed tonight, we pause to make up our minds that the vote we cast tomorrow shall count for the things that are important to all of us. It is one of the rich rewards of democracy that every man and woman who votes has a voice in deciding who is best fitted to serve the interests of the people. More important than the decision on individuals is the decision concerning what they stand for and whom they represent.'

He ended with a tribute to the chairman of his campaign committee, Charles C. Burlingham. His last platform speech closed with the confidence that was in the air.

He was taking no chances of a stolen election. His early experiences as a worker on campaigns, a doorbell-ringer and poll-watcher, served him well. As election day drew nearer, he had kept reiterating his warnings against election frauds. He had told of the census that had been taken of the houses where the floaters had been registered as residents, and how it had been found that the population of those houses had gone up fifty per cent in a week. Some of these floaters had been arrested long before they could float.

But, if there were frauds committed at the polls, he announced, after his election he would not send such small fry to jail. He would use them as witnesses against the leaders who sent them to commit this 'theft of the franchise of decent people.' He gave 'fair warning to the leaders' that he would hold them personally responsible. As he put it bluntly: 'I am interested in the man who sent the man who sent the man to do the voting.'

This year, he said, there would be twenty-three hundred additional watchers, and they would be 'longshoremen, cutters, hat-pullers, a nice large collection of men who work with their hands, strong and courageous and a little bit bored, just looking for some amusement. If somebody starts a fight at a polling place, he is going to be sorry.'

Straw votes had been taken everywhere with immense excitement. All pointed to an overwhelming success for La Guardia and Dewey. But the hitherto infallible Postmaster General Farley prophesied the victory of Justice Mahoney over La Guardia by 400,000.

Another Democratic power, however, and that James J. Hines of all people, was more cautious. On the night before election, when asked how it would go, he said: 'Well, there is a vibration in the air that seems to say La Guardia and Dewey. If it's a true guide it's a sweep. When a sweep comes there's nothing you can do about it. Dewey is a very nice young fellow.'

'He doesn't speak so well of you,' the interviewer said.

Hines smiled: 'Oh, but that's because he doesn't know me very well. Mr. Dewey is a very impressive speaker.'

The typical indifference of Americans to the privileges of the ballot has rarely failed from Revolutionary times on. It is astounding how small a vote has decided many of our great historical issues. But Dewey had stirred the public to such enthusiasm that the polls were thronged on November 2. And it was an exceptionally 'clean' election, utterly devoid of vote frauds or other 'incidents.' The newspapers published, of course, a picture of Dewey and his wife casting their votes. Both were smiling. The Tammany men and the Democrats outside that fold were not smiling, and the returns deepened their gloom.

In a speech he delivered later, Dewey made a striking comment on the value of an awakened citizenry. He pointed out that 'when Tammany Hall was swept to its last victory in 1929 by a crushing plurality of more than two to one, the total vote was about 1,200,000. The dominant machine, by polling 860,000 votes to a pitiful 360,000 for its opponents, appeared to have demonstrated conclusively that no one could ever rise to fight it. Yet in 1933 and again in 1937 that machine was crushed. The startling fact is that, in the 1937 election, Tammany Hall polled approximately the same number of votes which it received in 1929. The difference was that a million more people voted in 1937.'

It meant something, too, that voters registered their ballots by pulling down a handle on a machine. Many of those who go to the polls at all think they have done enough for their country if they pull the first handle and hurry away to their interrupted holiday. Mayor La Guardia's name was on the first handle; Dewey's on the sixteenth. Yet Dewey ran far ahead of La Guardia in New York County and was generally credited with the major share of the victory.

La Guardia's plurality in New York County was 91,989; Dewey's 109,019, nearly twenty per cent more than La Guardia's. Dewey's plurality was also larger than the total vote he received as the candidate of the American Labor Party, the Fusion Party, or the Progressive Party: his Labor Party total was 92,584; his Fusion total was 38,800; his

Progressive Party total, 7556. His Republican vote was 187,411. His opponent, the Tammany candidate, Hastings, received 217,322 votes. Dewey's grand total was 326,351.

In his first campaign for elective office he had demonstrated new gifts that were to lead him on to new worlds of hope and hardship.

On election night he dined with his wife and his mother at a little restaurant near his headquarters at 11 East Forty-Fourth Street. Photographers and reporters lay in ambush for him. Outside was a truck carrying a short-wave transmitter to a broadcasting station. But Dewey would not speak while the result was in doubt.

At length he went to the microphone set up in a room in his headquarters and addressed his jubilant supporters everywhere:

'In the campaign just ended, I made but one pledge to the public. I promised that, beginning January 1st, the people would be protected by their own District Attorney and by a staff of lawyers who owe their allegiance to the people. We shall restore criminal justice in this county. We go ahead with a deep sense of responsibility to the people of New York.'



## Chapter XVIII • A BLOW FOR TAMMANY

THE election of Dewey electrified the whole country, since Tammany had been a national word for corrupt political power entrenched and immemorially immovable since there had been a nation.

As the first to break its hold on the all-important District Attorney's office for twenty-one years, Dewey had dealt Tammany a staggering blow. He was to follow it up by knocking over many of the Hall's most important leaders.

The headlines of the nation held a jubilee over another of its deaths. A paper in Stockton, California, shouted: 'Tammany Wigwam Torn to Tatters.' The New York City *World-Telegram* rejoiced: 'Hoodlums Start Out as Dewey Starts In.' According to the New York *Evening Post*: 'La Guardia Victory Costs Tammany \$1,000,000 in Jobs. President F. D. Roosevelt Has La Guardia to Dinner at His House.'

Dewey was not invited. Yet the Washington, D.C., *Herald* was already speaking of him as a presidential possibility. Other papers sounded the same note. 'Dewey, Potential Candidate for the Presidency, Seen as Next Governor.' 'Dewey Mentioned for White House.' The *Mirror* spoke soberly: 'To the Victors Belong the Toil.' And this last thought was what kept Dewey solemn in that hour.

The election of November 2 did not, however, make him District Attorney until January 1, 1938. He was still Special Prosecutor, and the word was 'Business as Usual.'

But there was one dramatic incident in the aftermath of

the election. Assistant Attorney General Schneider resigned so promptly, if not precipitately, that one paper cried: 'Dewey Blasts Schneider Out.' In resigning, Schneider said, according to the papers: 'I would rather be Charlie Schneider, maligned, stigmatized, libeled and tossed about than be Mr. Dewey going to bed with this on his conscience — if he has a conscience.'

Denying that Attorney General Bennett had demanded his resignation, Schneider insisted that he had tendered it from 'a sense of obligation to my superior, not to place him in a position where injury might befall him — call it "galantry" if you like; that is a lost and much forgotten word.'

During the campaign he had declared that he would press a libel action against Dewey for his 'foul utterances,' and against certain newspapers. But he never carried out his threat, and a year later he quietly resigned as a Tammany district leader. Two days after election, his client Goldis, whom he had kept free, was indicted for the murder of Billy Snyder. Dewey's staff had been working on this case with the grand jury for seven months. At first Goldis pleaded not guilty; but two months later made a confession and turned state's evidence.

On the Saturday following election, Dewey and his wife sailed for Bermuda, seeking a brief respite from his labors and from the armies descending on him for jobs in his new office. He took along his assistant, Paul Lockwood, together with a mass of documents for study.

On November 25 the vacation was over and Dewey told the reporters that he had read three mystery stories in Bermuda. When asked about his running for the presidency, he laughed:

'That's a pipe dream.'

But it was no dream that five thousand lawyers had sent in applications for the sixty-four posts available on his new staff. He was dreaming, however, of merging his two offices into one, and estimated that he could thus save the city \$279,000 a year. Also he hoped to make a drastic cut in the usual expenses of the District Attorney's office.

But there was cold welcome for him in the letter from the Governor he found on his desk — a rather peremptory letter. Dewey's annihilating assault on so prominent a Democrat as Marinelli had naturally rankled in the minds of the heads of the state party and a citizens' committee had demanded that Governor Lehman remove Marinelli at once from office. They presented Dewey's speech as their formal charges. The Governor forwarded the charges to Marinelli for his attention.

Marinelli, while denying Lehman's right to interfere, struck a note of deep pathos in self-defense, and pulled out the tremolo stop:

'They are trying to crucify me. If it's a crime to help the underdog, then I'm guilty. Many East Side mothers came to me asking me to intercede for sons who had fallen into minor troubles. If I had helped spring any big-shot racketeer my tin box would show it. I have no bank accounts, no tin boxes. My limousine is a six-year-old car which has been the laugh of the community.'

On November 24, Marinelli sent the Governor a nineteen-page blanket denial of all charges and asserted that he had never taken a dishonest dollar in his life.

With this in hand Governor Lehman, on November 25, invited Dewey to submit some proof of his pre-election accusations, adding the adroit suggestion that Dewey should make an affidavit to the truth of anything he chose to say.

Thirty minutes after the Governor's letter struck his desk, Dewey sent out his own special corps of process-servers with police escort. They carried subpoenas for no less than three hundred of Marinelli's followers. The newspapers fairly rumbled with another of Dewey's raids, and one of them said that it looked as if Dewey were 'tossing Marinelli right back into Lehman's lap.'

By November 30, the reply to Lehman was drafted. This document was even more devastating than the radio talk; it repeated under oath every charge, and added as many new ones. The cold restraint of it caused much discussion among lawyers. It was the very bleakest of understatements.

The accompanying letter acknowledged the Governor's

invitation to submit charges against Marinelli based on his speech, and proceeded:

**A LETTER TO THE GOVERNOR. SUBJECT: MARINELLI**

'In my address of October 24 I stated that Albert Marinelli was "a political ally of thieves, pickpockets, thugs, dope peddlers, and big-shot racketeers." I repeat this statement, and I set forth below the relevant matters to which I referred in this connection.

'I. Sixteen persons who have been within the past year members of the county committee in the Marinelli half of the Second Assembly District, four others who have recently served as inspectors of election therein, and another who has been both a county committeeman and an inspector of election, making a total of twenty-one, are ex-convicts, with one or more convictions for burglary, assault, picking pockets, drug-peddling, and other charges.

'Nine other county committeemen and three inspectors of election, totaling twelve, have been arrested for burglary, homicide, receiving stolen goods, possession of drugs, and other charges, but were not convicted.

'II. On June 25, 1932, Marinelli left New York by railroad in the company of Charles "Lucky" Luciano to attend the Democratic National Convention in Chicago, Illinois. Marinelli and Luciano were together at the Arlington Race-Track in Chicago during that month and jointly entertained in Marinelli's room at the Drake Hotel. Luciano was at that time a powerful leader of the criminal underworld, later named by Police Commissioner Valentine as Public Enemy Number One, and is now serving thirty to fifty years in Dannemora Prison.'

An ex-convict, Patrick Lupo, went with Marinelli and Luciano to the Democratic National Convention. Marinelli had Lupo appointed Deputy Commissioner of Records at five thousand dollars a year. Two years later, in 1935, he was forced to resign. Since then he had had no visible means of support. Nevertheless he maintained an automobile and a thirty-five-foot cruiser.

Then followed a Falstaff's army of rascallions, whom Marinelli 'frequently met and received alone in the private office of his club': Joseph 'Socks' Lanza, fish racketeer and, later, an inmate of the federal penitentiary; 'Little Davie' Betillo, lieutenant of Luciano, State Prison; Anthony Indelicato, alias 'Schutch,' robber, murdered; Dominick Didato, founder of the trucking racket, murdered; James Plumeri, trucking racket leader, State Prison; another Dominick Didato, industrial gangster, also murdered — *et ceteros, et ceteros*.

Dewey continued: 'I am prepared to prove each of the statements herein by documentary evidence and the testimony of witnesses. . . . Since you suggested that my charges be under oath, I am annexing my affidavit hereto so that in the event you desire to treat these statements of facts as formal charges there will be no delay.'

Dewey did not give out the names of all the persons whose records he had collected, although he furnished them in confidence to the Governor.

The Governor called on Marinelli to reply.

After a week of silence and concealment, Marinelli replied by resigning his county clerkship with its \$15,000 a year salary and all its perquisites. He took the altruistic ground that if he asked for a public hearing to prove his own innocence, it might cause some of his friends suffering.

When the reporters asked Dewey for a statement, his comment echoed Marinelli's first comment on Dewey's first assault: 'No comment.'

#### A GRIDIRON DINNER

Dewey was now invited as a guest of honor to the nation's most famous banquet, the annual Gridiron Dinner in Washington. President Roosevelt was there and spoke, as did La Guardia. Dewey was simply there.

But he was honored by being impersonated in the course of the satirical review of the political year, in which the newspapermen of the Gridiron Club show that they are no respecters of persons. They sometimes more than hint that

familiarity with the great breeds something very close to contempt.

Dewey was accused of nothing worse than ambitious dreams. An actor made up to look like him and another made up as La Guardia sang a duet called, 'Dreaming White House Dreams,' in which the jealous rivalry of the late teammates was assumed as inevitable.

The mock La Guardia sang:

'I see the White House just at eight,  
The table where they dine in state,  
Spaghetti on the White House plate.  
Why do I dream those dreams?'

The mock Dewey followed with:

'I see the White House just at three,  
I see a large-sized company;  
I see them shaking hands with me —  
Why do I dream those dreams?'

La Guardia:

'The New Deal my approval got,  
But now I think it's not so hot.  
I could improve it quite a lot.  
Why do I dream those dreams?'

Dewey:

'I know I could improve it, too,  
Though I'm not telling what I'd do,  
But I can dream as well as you.  
Why do I dream those dreams?'

Back in New York, Dewey gave a dinner himself on December 17 at the University Club. His guests were the nine judges of General Sessions. All but two of them were Tammany men. The purpose of this dinner and of a luncheon he had given to the sixteen judges of Special Sessions at the Lawyers' Club was to become acquainted and exchange ideas to facilitate the work of his new post as District Attorney.

There were both material and spiritual preparations to make for his next task. On becoming Special Prosecutor he

had taken offices outside the range of the political mob; and he did not propose to accept as it stood the old rookery of the District Attorney's barracks at 137 Center Street, originally built for a laundry. The corridors were so huge they were called 'bull-pens' because of the politicians and their hangers-on who loafed there in herds. Secrecy was impossible. The Bureau of Complaints was hidden away upstairs, and anyone hardy enough to hunt for it ran a gantlet of menacing scrutiny. The plumbing was perilous and the lighting so dim that, while it might have served the easy-going predecessors, it would never do for the prolonged and incessant night work of Dewey's staff.

The departing District Attorney Dodge could not very well object to the renovations of his successor, and Dewey obtained the help of a large group of WPA workers who really worked, and in three shifts. The corridors were narrowed so that they could no longer hold crowds. Big offices were made small and numerous. The Complaint Bureau was moved down to the first floor, where it was easy of access through a small hall in which only the policeman on watch was permitted to linger.

#### THE RACKETS BUREAU AND THE FRAUD BUREAU

Extra space had to be found for two new bureaus Dewey created: the Rackets Bureau and the Fraud Bureau. When he learned that the two top floors of the old Health Department Building next door were vacant, he applied for and secured permission to occupy them. Doors were cut through.

And now a witness could be brought secretly into the office through four different buildings. He could enter by way of the Tombs or the Criminal Court, or 139 Center Street, as well as by the regular entrance at 137. With the two Bridges of Sighs connecting the buildings, there were so many entrances and exits and elevators that it was practically impossible for outsiders to keep tabs on such visitors. The District Attorney's office was now as it should be — a depository of secrets and a laboratory of investigation instead of, as before, a cave of the winds where politics and gossip ruled.

There was a rumor that Dewey would, as the saying was, 'run a bus through the D.A.'s office and run down everybody there.' Knowing how difficult it would be to persuade veterans of the old order to adapt themselves to the new dispensation and how full of politics the force had been, Dewey resolved to dismiss all of Dodge's sixty-four assistants.

He made three exceptions: one would be eligible in a few months for a pension earned by twenty years of service. Another was John MacDonnell, whom he kept because of his ability and his war service — he had gone overseas with the Seventh Regiment and received a Distinguished Service Cross for raiding two German machine-gun nests the same day. Dewey also kept Felix Benvenga as head of the Appeals Bureau; he had started as a stenographer in the office thirty years before, worked his way up, and revealed distinguished ability. Benvenga later became a Justice of the Supreme Court of New York State.

Dewey had outlined his needs and plans in a long letter on December 29, 1937, to the Director of the Budget; he explained how he could add two new bureaus without added expense; how he would save much money by abolishing a number of positions that were either political or ornamental. Arguing that it would impair morale, he refused to cut the salaries of employees he retained. But where he dismissed political appointees who had been doing merely nominal work for large and unearned sums, he reduced the salary for the vacated post and then made new appointments on a basis of ability and qualification. He showed how the clerical staff could be reduced with no loss of efficiency, and new positions of vital importance created.

Much of a District Attorney's business is transacted by process servers, and a quiet investigation before he took office convinced Dewey that there had been a ridiculous amount of waste in that department. He found the staff 'bloated and grossly overmanned' and reported various instances to the Civil Service Commission.

'One process server was carrying the hat and taking off the coat of the District Attorney and doing nothing else. I found him waiting there for me.' Once installed, Dewey car-



ried his own hat and laid off his own coat, and shifted the process server to serving processes. Though eight visits a day should have been made, some of them made only one and a half services a day; the average was four. The chief drew a salary of \$4200 a year; he was a Tammany district leader who merely dropped in. Another was almost always out. One process server sat all day and stamped envelopes. Dewey discontinued the office of chief process server altogether, and reduced the total number from sixty to twenty-five, thus saving at least \$75,000 a year, while improving the work.

While cutting out dead timber, he increased the staff by several additional Deputy Assistant District Attorneys, ten accountants skilled in criminal research, and ten investigators trained in criminal law. These came from his rackets investigation staff and several of them had previously served as G-Men with the F.B.I. That was real pioneering. The District Attorney's office in the country's greatest financial center had never before had a staff of trained accountants and investigators.

He abolished nearly fifty useless posts and put fifty-six under qualified civil service, with a total saving for the city of \$346,000 in wages and salaries. He brought with him all of his aides in the Special Prosecution except William B. Herlands who left him to become the Commissioner of Investigation of New York City, charged with the investigation of all city departments. Sewell T. Tyng, who had gone into private practice for a time, returned to the fold.

Dewey's effort to clean house and install new tenants met with stiff opposition, and the State Civil Service Commission was urged to make every position free from his interference. But on Dewey's explanation of his plans, he was granted permission to create new positions and discharge old employees as he felt best for the tasks before him.

On the last day of the year, Dewey was sworn in by General Sessions Judge Charles C. Nott, Jr., at his chambers in the Criminal Courts Building. Dewey's wife and his mother were present at the ceremony.

The retiring District Attorney, William C. Dodge, had not been defeated; he had not even been nominated. While bidding good-bye to his own staff, he gave to the papers a blast at Dewey. But then it can never be pleasant to be sitting out on the butt end of a lost cause when a revolution comes along. Dewey had never spared either Dodge's office or its incumbent; and the feud was by no means ended in Dodge's farewell address, during the course of which he said — leaving little doubt as to what individual he meant by 'certain people':

Some day I may describe in detail how certain people not only sought to hide from the public the accomplishments of my administration, but actually interfered with the orderly administration of the criminal law in order that they might enjoy publicity. . . . We are passing through a cycle of hysteria. It requires courage and a sense of humor to hold public office. . . . The only true solution to the crime problem will be found in better living conditions, better parental care, and more attention to God.

#### TAKING OVER THE DISTRICT ATTORNEY'S HARD JOB

At midnight December 31, 1937, Dewey took over the old barracks. On New Year's afternoon he held a long conference with such of his staff as had been selected. The next morning in a deafening uproar of hammers and saws, a scurry of carpenters, cabinetmakers and painters, and a swirl of flying partitions, chairs, desks, and filing cabinets, Dewey and his large official family formally moved into his incompleated offices. With a grin he offered his predecessor's swivel chair to anyone else who wanted to keep it warm.

When a mob of reporters and photographers crowded in to see his installation, they came to a friendly understanding as to what he considered, and the press would agree to regard, as 'off the record.' He said that his first job would be to reduce the large population imprisoned in the Tombs, awaiting indictment or trial.

Though so many criminals had been left at large, there had been a cruel accumulation in the cells, more than four

times as many as on the preceding January second. Of the 382 prisoners 224 were awaiting trial, and 158 were being held for the grand jury, without ever having been given a hearing. One man had been kept there for over a year and his case had not been presented to the grand jury for eight months. Three prisoners had been there for nine months. In six months Dewey had the number reduced to the lowest on record. Dodge had left him 548 routine indictments, many of which were secured on evidence that, Dewey felt, would not hold up at a trial. He planned to weed these out.

As soon as the reporters released him, he administered the oath to forty-four of his aides who had already been assigned to their respective bureaus. He appointed Paul Lockwood as his Executive Assistant.

Since New York never sleeps and criminals prefer the dark, he saw to it that at least part of the Homicide Bureau of twelve Assistant District Attorneys was on duty twenty-four hours a day, three hundred and sixty-five days a year.

New Year's Day had promptly provided the first killing for the new administration. A half-naked woman, apparently kicked and beaten to death, was found in an apartment. The Assistant District Attorney on duty made a swift investigation and caused a quick arrest.

Instead of following the usual New York custom of long absences at lunch hour, Dewey continued his own long-standing custom of lunching on coffee and sandwiches served at his desk. On the first afternoon he held a reception to such judges as could attend, and introduced his aides to them. Then he officially turned to the People of New York. And the People of New York did not leave their servant idle.

On that first day one thousand people came to the office of their lawyer. They kept close to that average for a year. It was as if an iron door of ancient injustice and indifference had been holding them back. And now the door was flung wide. A young man who believed in the old simplicities and virtues, the old hatred of evil and the sacredness of promises had made the people one promise and kept it. They came to see if he would still keep his word. If he would, it changed their whole world for them. So in they streamed in unceas-

ing thousands burdening the assistants in the Complaint Bureau with full days and long evenings of toil. But they found welcome, willingness to listen, to help, to protect, and to avenge.

The prestige of Dewey as one who protected witnesses and victims brought enormously increased swarms of complainants. Even people who had no legal complaints came to call with a small-town neighborliness. Women actually brought their bad children to the office and told the man on duty: 'I want Mr. Dewey to give this boy a good talking to.' The amiable young man at the door would either administer a lecture, or call one of the assistants who would convey a message as if from Mr. Dewey.

In Harlem mothers were heard saying to their fractious brats: 'You stop now, or I'll get Mr. Dewey up here.'

From all over the country the strangest appeals poured in and were handled by the staff.

'You go stop that nudism at the World's Fair.'

But the World's Fair was in Queens County.

'My uncle in Australia left me out of his will. Please help me collect.'

But Australia and civil cases were outside his jurisdiction. Yet, even though not within the purview of his office, such queries were checked, for his staff was under instructions to be as helpful as it consistently could be.

Foreign nations wrote to the office to look up citizens who had vanished somewhere in the United States. Many demented persons wandered in with pitiful delusions and were tenderly counseled by the tactful chief interviewer, Michael Monz, or his assistants.

Back of him and above in the huge factory the work of justice was done. The grind was almost overwhelming for the workers. A hint of that work and its technical details is in order. For those who know nothing about machinery and do not wish to disturb their peace, the next chapter is a good one to skip.

## Chapter XIX • IN THE DISTRICT ATTORNEY'S OFFICE

WHILE New York City is no better and no worse than any other American community in proportion to its size, its size is enormous, its population is compact, and its vast treasures offer unusual temptations, its lofty and crowded buildings unusually easy access and convenient concealment.

Months before he ever thought of running for District Attorney, Dewey had described the legal set-up of New York City in an address on May 11, 1937, at a luncheon of the Citizens' Committee on the Control of Crime in New York. It is such an impressive picture of the magnitude of the problems and the machinery for handling them that it can serve as a preface to his new situation:

'There are five regular District Attorneys in this city in its five counties, having a total of 132 Assistant District Attorneys and enjoying a total appropriation of \$1,560,275. There are also the Racket Bureau of the Attorney General of the State of New York; the Racket Bureau of the Attorney General of the United States, operating in New York County; the United States Attorney for the Southern District of New York, which includes New York and Bronx Counties; and United States Attorney for the Eastern District of New York, which includes the other three counties of the city.

'There are, thus, five county prosecuting offices, the State prosecuting offices and three federal prosecuting offices, all in the City of New York, whose total budgets are greatly in excess of \$2,000,000. All these operate separately. Some are elected and some appointed.

'In addition to prosecuting agencies, there are, of course, the approximately 18,000 city policemen and the numerous

agents and investigators of the eighteen federal investigating services, which include the Department of Justice, the Post Office Inspectors, the Secret Service, the Intelligence Unit of the Treasury Department, the Narcotic Agents, the Alcohol Tax Unit, and twelve others.

‘Certainly this indicates an adequate number of law-enforcement officials with substantial operating budgets. Here is a labyrinth of procedure and overlapping and conflicting jurisdictions which would almost seem to have been especially designed for the comfort of criminals.’

Although Dewey was now only one of five District Attorneys, his office had more responsibility than all the others put together. His county contains one tenth of the entire wealth of the United States. It is the financial center, not only of the nation but perhaps of the whole world. It includes Wall Street and the incalculable activities of the railroads, the shipping — coastwise and to all nations — and wholesale and retail business of every sort.

The business of the District Attorney of New York County is far greater than that of the majority of the states in the union. The administrative problems are greater, too. These include supervision of ten bureaus, the work of a staff of eighty lawyers, appearing daily in fifteen different courts. Eight of his assistants receive \$10,000 a year and three get \$12,000.

The posts in the office had been political plums since time almost immemorial. The District Attorneys whom Tammany selected and elected had hardly been consulted about these appointments. Elected by the people, not the bosses, Dewey demanded education and experience of his lawyers. Though Dewey was not a Phi Beta Kappa man himself, there were so many of the key-holders on his staff that a judge in General Sessions Court once said he was tempted to rule that a Phi Beta Kappa key was a burglar’s tool!

Applicants for legal posts were required to give their personal history and background, and each was interviewed. Those who seemed to pass the test were carefully investigated. Once his lawyers were chosen, Dewey insisted that they give up all private practice and assure him of their ability and willingness to live on their salaries.

In the office of Special Prosecutor, the racket investigation had required a staff of seventy-six, including twenty lawyers. As District Attorney, Dewey would have a total personnel of two hundred and twenty-five, including eighty assistant attorneys, but they must carry on the Herculean labors of both offices.

Former District Attorneys had simply ignored complex fraud cases. Dewey felt that they were of the utmost importance, and built into the office a real Fraud Bureau with seven Assistant District Attorneys working full time. It handled more fraud cases than any other office in the United States. Virtually all of the big stock swindles originate in this county. The Rackets Bureau took over the intricate and wearing investigations of the Special Prosecutor's office. The addition of these large and busy bureaus had to be kept within the budget.

Former District Attorneys had made no use of staff accountants. Dewey brought over ten. He also found work for twenty WPA accountants.

Formerly visitors to the office had wandered about the wide corridors exchanging gossip and visiting as they pleased. Dewey formed a group of 'interviewers,' one for each floor, to serve the double purpose of welcoming visitors of all sorts and directing them intelligently to the right office or fending off entirely those who had no business there. The interviewers put a distinct check on the ancient leakage of evidence and work in process.

#### THE OFFICE ORGANIZATION

Dewey's aim was the executive ideal: that is, the delegation of power and activity into such channels and controls that the executive's absence, disability, or death will not stop the machine.

As finally organized, the office was divided into the following bureaus whose first-year tasks have been thus described:

The General Sessions Bureau, with Sewell T. Tyng as its head. In a year it handles more than three thousand felony cases such as assault, burglary, grand larceny, forgery,

receiving stolen goods, and the concealment of dangerous weapons.

The Homicide Bureau, with Jacob J. Rosenblum at the head. It handles murders, fatalities in fires, automobile homicides, and homicides where criminal negligence is suspected. It is never closed and its members always are ready to speed to a scene of death.

The Special Sessions Bureau, under Sol Gelb and Mrs. Eunice H. Carter. It handles fourteen thousand misdemeanor cases a year including petty thefts, simple assaults, gambling, and various types of swindles.

The Indictment Bureau, under Stanley H. Fuld and later Robert H. Thayer. It presents evidence to the grand juries and prepares indictments.

The Complaint Bureau, under Thomas B. Gilchrist, Jr., and Edward S. Joseph. It studies the stories of the thousands who write in or bring in legal problems and complaints. These persons are directed to the Indictment Bureau if a crime has apparently been committed, or to another appropriate bureau, or to the proper outside agencies for help and protection if no crime is found.

The Appeals Bureau, under Felix Benvenga. It takes care of activities in the higher courts.

The Rackets Bureau, under Murray I. Gurfein. It continues the methods and follows the work of the special rackets investigation and conducts investigation of corruption in public office. With this bureau the investigators and police detectives do most of their work.

The Fraud Bureau, under Barent Ten Eyck and later Frank A. F. Severance. It handles defalcations by officers of corporations, bucketshops, commercial and real estate frauds, stock, insurance, and other business swindles, misleading advertisements, trade-mark infringements, false use of union labels, ambulance chasing, etc.

The Bail Bureau under Ernest Lappano. It examines and approves or rejects bail and other bonds. It also collects bail forfeitures and because of its persistent check-up of such forfeitures it turns into the city ten times as much money as the office had ever collected before.



The Abandonment Bureau, under Florence Kelley. It enforces the obligation of husbands to support their deserted children, collects the money, and pays it to the mothers.

The Accounting Staff, headed by A. J. Gutreich, makes examination of voluminous books and records, and prepares financial reports.

The Investigators are headed by Chief Investigator John F. O'Connell.

The detectives and policemen especially assigned to the office are directed by Captain Bernard Dowd and Lieutenant William J. Grafenecker.

Besides these bureaus and in association with them, there are many miscellaneous activities including elaborate systems of recording complaints, incoming and outgoing mail; the preparation and service of more than one hundred thousand subpoenas and other court processes; the arguing of hundreds of motions in courts; the handling of writs of habeas corpus, extraditions, etc.

The Medical Assistant conducts psychiatric and neurological examinations, physical examinations, and testifies in court.

The Civil Engineer conducts surveys of homicide scenes and testifies in court.

The Photographer takes pictures in homicide and other cases and makes thousands of photostats of exhibits.

Reports and recommendations concerning criminals are made regularly to the Parole Boards. Serious studies are made of the problems connected with juvenile delinquency, sex offenses, child abandonment, congestion of population. Conferences are held with social and welfare workers, with a view to legislative and other remedial measures. The Legal Aid Society has been reinforced and joined in co-operation.

Back of the legal staff of eighty lawyers are one hundred and fifty clerks, stenographers, and others.

The financing of this great institution was a major problem. Budgets were required and Dewey had his made out with the utmost care. He is himself an expert in such details. His budgets stood the test of action and were not, as so often

in high politics, mere golden promises forgotten as soon as sold, or discarded for alleged emergencies. He allowed for emergencies and only increased his outlay when he had secured appropriations in advance.

By eliminating uselessness and wastefulness in personnel and procedure, he was able to add all his new personnel and save six thousand dollars besides on the service schedules in the budget. He was able to combine with the District Attorney's office the work he had done as Special Prosecutor and accomplish both tasks on less money than the previous cost of the District Attorney's office alone.

In 1936, for example, the District Attorney's office had cost \$1,056,320. This included the appropriation of \$229,795 for the racket investigation which was doing the work that should have been done by the regular office. Dodge had also asked for and received two appropriations of \$50,000 each to conduct the bond and mortgage, and the accident fraud investigations, in which, as Dewey said, Dodge had to go outside to 'hire a lawyer.' This brought the total to \$1,156,320. Dewey in 1938 actually did all the work for \$768,046, a saving of \$388,274, or thirty-three and one third per cent.

#### HANDLING AN IMMENSE BUSINESS

Dewey had been urged, even by some of his friends, to keep a large part of Dodge's staff at least until he was well started in the new task. Nine judges in General Sessions were ready for their grist of felony cases and ought not to be kept waiting. More than eleven hundred misdemeanor cases were awaiting trial in Special Sessions.

There was only a week's delay while Dewey devoted himself to building his organization for action. Then, with a crew largely inexperienced in the new work, he began to handle the immense business of the office with a speed and effectiveness before which all known records fell.

The Washington correspondent of a Boston newspaper made a study of the Dewey establishment and said:

It requires more executive and administrative work than running the White House. Problems of enormous importance

cross the desk, and the hours put in by the officials make a startling contrast with the Southern leisureliness of White House procedure.

Two grand juries were sworn in to take care of the work. These, with the two serving for his special prosecutions, made four grand juries for the office to feed. And the office kept them fed.

Among Dewey's very first acts was one of mercy. He was making the rounds of the fifteen courtrooms in which his assistants were conducting cases. In one he found his assistant troubled because of a young prisoner. The young man had once been convicted of the theft of an old typewriter worth about eight dollars. He committed another crime and in the month before Dewey took office his counsel had pleaded him guilty to a second offense charge of grand larceny in the first degree. That made it mandatory on the judge to sentence him to from ten to twenty years.

When his assistant expressed his regret for such a cruelty, Dewey interrupted the court with a protest:

'The plea of guilty and mandatory sentence are an outrage, and I suggest that the plea of guilty be withdrawn. This young man has had an unfortunate and hopeless family life, but has always worked when he could get work. He and a friend, both unemployed and without funds, held up a man, but had no weapon, and committed no assault. The sentence would be a gross miscarriage of justice. I suggest that the defendant's counsel make an application to allow this defendant to withdraw his plea and plead guilty to grand larceny in the second degree. The District Attorney will join in the motion.'

Judge Koenig consented, saying: 'The court commends the fine attitude of the District Attorney in his effort to attain the humane administration of justice.'

A few weeks later, Dewey was combining mercy and mercilessness in one act. Under Dodge's administration a nineteen-year-old Negro had been convicted of possessing a pistol, but had not yet been sentenced when Dewey took office. The Assistant District Attorney who inherited the

case was concerned about the justice of the charge and took it up with Dewey, who ordered an investigation, which took two weeks. Incensed by the facts disclosed, Dewey walked into the court when the Negro was about to be sentenced and said: 'I have a grave and unpleasant duty to perform in this case. I move to set aside the conviction on the grounds that perjured testimony was given by a member of the New York Police Department.'

The colored youth was led away 'rolling his eyes in glee, a wide grin splitting his face.' Then Dewey told the story of the policeman, who was so ambitious for promotion that he had falsely accused the youth. Dewey had the officer held in \$10,000 bail for trial; he was convicted of perjury and sent to jail.

#### PROTECTING THE INNOCENT

That was a revolutionary change in the fashions for District Attorneys who had been more apt to steal into court and whisper to a magistrate that it would be advisable to let a felonious racketeer be charged with a misdemeanor, and that forgotten. Policemen had been punished before, but not for accusing humble and friendless Negroes. Their exile had come from annoying the pets of politicians.

That Dewey was no enemy of policemen as a class was repeatedly proved. On January 6 a patrolman had been killed when he interrupted the hold-up of a crowded bar. As he fell he mortally wounded one of the three bandits. The other two escaped; but one was quickly caught. A few days later the other was arrested, and both were later convicted of first degree murder. Another policeman was severely wounded on January 7.

At a meeting of a police organization, Dewey said: 'I want to serve notice on the underworld that any man who points a gun at a cop will be prosecuted to the limit, and any man who kills a cop will go to the electric chair if the combined power of police and prosecutor can send him there.'

There can be no pretense of even listing the daily toil. In its first week the office sent one hundred and twelve cases to

the grand juries while cleaning out 'the forgotten men' in the Tombs.

Dewey had been in office only two months, when, already on March 2, 1938, it was proposed that he run for Governor in the next campaign. He answered the proposal with a blunt reminder that he had a job to finish. But the demand continued to grow throughout the state.

#### THE RICHARD WHITNEY CASE

Dewey never had confined his attentions to the lowly, as the banker Charles E. Mitchell had learned. On March 10 one of the greatest financial scandals ever known in New York broke when Richard Whitney, wealthy member of an honorable family and former president of the Stock Exchange, was accused of grand larceny. His firm failed for \$2,000,000, and it was shown that, among many illegal transactions, he had dissipated a trust of \$105,000 belonging to his own kin, and a fund of \$103,000 in securities belonging to the New York Yacht Club.

Dewey's office stepped swiftly into the case by indicting Whitney, arresting him and holding him under \$10,000 bail. On further information Whitney was rearrested within twenty-four hours, and his bail raised to \$25,000.

Whitney fell like a giant oak, changing the whole financial horizon. With little delay he pleaded guilty. Sewell Tyng had taken charge of the case and prepared a detailed report which was filed with the court. It was reprinted and filled a whole page of the *New York Times*. Concluding the long statement of the case, it asked the court to impose a 'substantial and punitive sentence.' Whitney was sent to Sing Sing for from five to ten years at the very time when Dewey was saving that nineteen-year-old Negro youth from being framed by a white policeman.

In the potpourri of cases coming into the office were the jailing of the treasurer of a club at Princeton for embezzlement; the Levine kidnaping and extortion mystery; a Wild-Western battle between police and bandits trying to hold up the Howdy Night Club in Greenwich Village, in which two

of the three bandits and one policeman, Hambert J. Moruzzi, were wounded; a girl witness committed suicide; the policeman died; the three bandits were indicted and later convicted for murder in the first degree.

A thorny problem always at hand was the business of making recommendations about the paroles of convicts. Previous District Attorneys had simply dodged the issue by writing 'No Recommendation.' Dewey assigned Sewell Tyng to the reorganization of this important and difficult work. He wished to make it 'useful and human.'

If the Sphinx had only chosen the question of parole for her riddle, even Oedipus would never have found the answer; and the Sphinx would still be as alive as the riddle is. Dewey said this of it: 'In spite of all the talk of its evils, parole can be made to work if it is honestly administered. If you don't believe in the possible rehabilitation of a man who has gone wrong once, you ought to send him to jail for life for stealing an apple. Surely no one holds such a view as that.'

Invited to address the Legal Aid Dinner of the Bar Associations of the city and the county, he stirred the hearts of the members by proposing what would have seemed hitherto to be the least possible of dreams. He proposed a plan by which the lowliest pauper might be defended by the most expensive lawyer in the country.

The law was supposed not to discriminate between rich and poor, but most people felt that justice was not blind.

'Criminal justice in particular,' said Dewey, 'takes notice of the size of the defendant's purse. The bar draws its clean skirts aside as it passes the Criminal Courts Building and its ablest members are rarely, if ever, seen there. The defense of human liberty has been abandoned to a handful of the profession.

'But, from this handful, the great mass of the public acquires its impression of lawyers generally. The so-called "mouthpiece" is the publicized element of the bar. His exploits in obstructing justice disgrace the whole profession and drag it down in the opinion of every thinking person. . . .

'I do not speak here of those fine members of the bar who honorably defend those accused of crime and honorably

conduct themselves in the courtroom. These men we all know and respect. Nor am I now speaking of the practices of those lawyers who accept retainers to acquit defendants at any cost and by whatever means. I will deal with them in the courtroom on the merits.'

What he was appealing for was the vast army of defendants who had no funds. A third of those indicted for felony in the past year had no money for a lawyer or for preparation of a defense. 'This is the crucial point at which our system breaks down and needs your urgent attention.'

The Legal Aid Society had been for sixty years supported largely by members of the bar and had maintained a small group of lawyers known as voluntary defenders for impoverished defendants. It had handled 26,000 civil cases, but only six lawyers had been available for the 2400 criminal cases, of which only 389 had been assigned to them by the court. Over 1200 felony cases had been assigned to a group of 'bench-warmers whose offices are in their hats. The result is a tragedy and a farce.'

He cited grievous instances of penniless defendants in the prisons, and of bloodsucking shyster lawyers, ignorant, greedy, and utterly unscrupulous. One woman, brought before a magistrate on charges of vagrancy, told so pitiful a story that the magistrate not only discharged her, but gave her five dollars out of his own pocket. As soon as her lawyer got her out, he took the five dollars from her to 'complete his fee.'

Other lawyers kept their clients in prison, adjourning the cases while they badgered impoverished relatives for all they could raise.

#### THE VOLUNTEER DEFENDERS

Dewey astounded the lawyers by a kind of sporting proposition: Each of them, however rich or famous, should volunteer to handle four or five cases a year for nothing, just as a doctor devotes part of his time to a free clinic. He proposed a senior panel of volunteer counsel from which some gifted trial lawyer could always be selected, and also a junior panel

of recently admitted lawyers, each of whom would, for the sake of experience, give a month of his time every year. Dewey had already secured the promise of a number of law firms to permit their junior members to take these one-month assignments and to pay their salaries while they were so engaged. He had secured the promise of several eminent attorneys to serve on the senior panel.

'The bar will again become an integrated unit,' he said. 'That unsavory stigma attaching to criminal work will in time be definitely removed. . . . The defense of liberty will again become as honorable as the defense of property.'

The plan was received with warmest enthusiasm, and endorsed by such men as Henry L. Stimson, Charles E. Hughes, Jr., George Z. Medalie, and Harrison Tweed. It was put into practice at once. A senior panel of one hundred and forty-five lawyers and a junior panel of sixty began their work. The shyster lawyers began to avoid the courts where they had congregated like buzzards.

In no one of Dewey's achievements does he take keener pleasure and pride than in the establishment of those two panels of the Volunteer Defenders. They are entirely children of his brain, and more especially of his heart.



## Chapter XX • A LITTLE TALK TO THE STAFF

THE description of the ideal modern executive is of a man whose death would not be noticed for an indefinite period, and whose desk has on it nothing but a calendar, a memorandum pad, a telephone — perhaps, in extreme cases, an ash-tray. Dewey's main desk lacks even the telephone, since he hates to be interrupted by the bell during his almost incessant conferences. His secretaries, Harold Keller and Lamoyne A. Jones, and his personal secretary for many years, Miss Lilian Rosse, try to save him from telephone calls as far as possible. When he must talk on the wire, he goes into another room.

He makes himself many men, a hundred-armed Briareus, by delegating his power as far as possible. Having selected his aides with all care, he gives them full leeway and expects from them wisdom, experience, and a sense of responsibility. Yet he is always available for conference. When any of his staff bring him a finished report, he is likely, as one of them says, to tear it to pieces. But he expects his own opinions and conclusions to be subjected to the same slashing criticism from his aides.

Dewey did not succeed in filling his full quota of assistants until May 13, 1938. And then he called them all together in conference for the general understanding of problems and procedures. For future reference and guidance a stenographic report was made of the meeting, which lasted from 4.30 to 7.30 P.M.

A few excerpts from that report will give an insight into the actual workings of the most efficient and effective group that ever attempted to keep the District Attorney's office

abreast of the gigantic needs of New York City. They give also a living picture of Dewey in the center of his work.

First, the roll was called, and then Dewey spoke:

'Every place I go, people tell me about what they hear of my office. One man tells me that I have a wonderful staff, and the next man tells me I have a bunch of Boy Scouts. I say both things are true. I give thanks for the Boy Scouts, because they are the only kind of people who will work hard enough to enforce the law. . . . With the exception of a few mature men, the way to run a prosecuting office is to have men whose futures are ahead of them and not behind them.

'With regard to policemen: In January they felt doubtful about this fresh new staff. In February and March they developed a wholesome respect for the office. . . . But a middle-aged policeman does not like to come down here and be told curtly by a fresh young lawyer to sit down and he will see him when he is ready. It may be that he is just a cop to you or to other people. On the other hand, he gets three thousand dollars a year or more from the City of New York. He has for many years seen young, ambitious assistant district attorneys come and go; and he is still on the job. He frankly isn't much flattered by not being treated like a gentleman of senior years and long experience. I earnestly urge you to remember that most of them were here before you were public officials and are going to be here after you are no longer public officials.

'It is very urgent that you remember that you have been thrust into a position of power at a very early age. . . . You have got to get along with the New York Bar; you have got to get along with the public; you have got to get along with your witnesses. And the judges. I think it was all too common practice for our predecessors to treat the judges as though they were boys from the same clubhouse.'

As an *entremets* he mentioned the fact that convictions by jury obtained by his office had already reached the highest percentage in history, seventy per cent. His predecessor had boasted because his fifty per cent was much higher than even the famous William Travers Jerome had reached.

'There are cases backing up in certain parts, but the work

generally is simply swell; and the trial work I think is finer than it ever has been in the history of the office. I wouldn't swap the trial men of this office for the cream of all the offices there ever have been in the County of New York.'

He praised his Complaint Bureau for handling thirty per cent more business than in the past, and fifty per cent more hearings. And he counseled patience.

'You can't make a trial lawyer overnight. You can't make a racket investigator overnight. Don't get the idea that six months on an assignment has put a gray beard on you. Ten years ago I spent two years on one assignment, and still had a lot to learn. . . . If at any time a change in assignment occurs and you don't like it, come and see me. That is my business: that's what I'm here for.'

He went on:

'I have heard some comment around town that our office is high-hat. I suppose there are some people in New York who regard anybody who is honest as high-hat. From my observation, there are enough dirty fingernails around the office to clear us of that charge.

'We have had more letters than I have ever seen in any public office — we have at times what seems like a deluge of letters — saying that our assistants were extremely courteous. People never get any courtesy in most public offices. This is a mighty nice indication of the way the men in the office are treating the public.'

He spoke of office hours and night work. Most of them worked three nights or more a week and thought it hard, but he said he knew of 'no New York lawyer who amounted to anything who didn't work ten or more hours a day.'

He took up the question of the enormous office mail, which he had ordered opened in the mail room, causing 'a great and overwhelming cry about the violation of rights.'

'Experience has demonstrated that it is dangerous not to have every piece of mail coming into a prosecuting office recorded. All my mail is opened downstairs and it doesn't make any difference to me whether Joe Stone reads my letters or not. He can read my bank statements, too, if he can get any comfort out of them. On the other hand, it is my feeling

that, if anybody is going to get any love letters or mash notes or bank statements he does not care to have examined in the mail room by Joe Stone — who has no interest in your affairs — I suggest you have your mail directed to your homes. . . .

'A warning on photographs. Most of you would know it anyway as a matter of good taste. Don't let yourselves be photographed with a defendant. Remember the sheriff who had a picture taken with one arm around Dillinger. . . .

'You represent the District Attorney of New York County in the courtroom and you are absolutely on your own and I want everybody here to feel perfectly free to use his discretion when he is in a courtroom. . . .

#### 'YOU ARE PUBLIC OFFICIALS'

'But remember you are public officials twenty-four hours a day. And don't discuss your cases at lunch, in the wash-rooms, on the streets, or with anybody outside. I repeat that warning. Do not discuss your cases outside of the office.'

Investigations must be cleared, he said, through the chief investigator; all accounting work through the chief accountant. His Executive Assistant Lockwood who had, Dewey said, 'the toughest job in the office,' reminded them that pictures or records of convicts must not be given out. Requests for policemen must be cleared through the sergeant in charge of detectives and the chief investigator. Prisoners must be brought over from the Tombs for interviews with the least possible trouble for the police and the detectives. The question of restoring exhibits, old property, and stolen property recaptured was a matter for the bureau chiefs involved. Dewey was already a defendant in two such suits involving custody of property.

He gave them final warning: 'Bear in mind that every public official is sold out by the man he spoke to on the street corner. Bear in mind that there are people who would give a few years off the end of their lives to be able to get something on any assistant attached to this office.'

The eagerness for efficiency at any cost of consecration

and self-forgetfulness explains William B. Herlands' characterization: 'Dewey's outstanding quality is his ability to inspire endless personal loyalty as well as official loyalty. I don't think the rackets investigations would have been successful unless the men had sacrificed time and health and merged their own personalities in Dewey's.'

The eyes of all America were on Dewey, as well as the eyes of the criminals and their victims in New York County. Everybody seemed to feel that what he was doing for his own city he was doing for the whole nation.

In June, 1938, he was awarded an honorary LL.D. by Brown University and in his speech there pleaded for the divorce of law enforcement from politics, political machines from the underworld, and municipal government from political racketeers.

But there was never a greater enemy of improper publicity. He would give no help to the dramatizations of his work, perhaps because it was too dramatic in its realities for him to enjoy fictional twistings of it to fit a plot, a star, and a love story. He made no effort to prevent or censor the gangster films, and plays in general, that seemed to be based on his work, but he refused to profit by them. He received many offers, including one of \$100,000 for the mere use of his name, or his approval. He refused them all.

In Los Angeles a committee of fourteen civic leaders met and sent him a plea to come over into their Macedonia and clean it up. He was flattered, of course, but replied that he was too busy where he was.

As a result of his external policies toward the public and internal policies toward his own staff, he kept his office going at such an increasingly rapid pace that on July 5 three more grand juries were empaneled to replace two that were dismissed. Two others were retained. He now had five grand juries at work.

At the end of his first six months as District Attorney the office was able to publish an astounding record of achievement: the highest percentage of convictions in the Court of General Sessions in history so far as statistics were available.

In 1902-09, William Travers Jerome had made a sensation

with 44 per cent of convictions from all his trials. In 1910-14, Charles S. Whitman, the last Republican District Attorney, had raised this to 60 per cent. The next year, Tammany came back and the percentage fell to 50 per cent, to 49, to 47, to 45. William C. Dodge brought it back to 51 per cent. Dewey shot it up to 63 per cent. Counting in pleas of guilty, the proportion of convictions had averaged 60.6 per cent for the previous eight years. Under Dewey the percentage rose to 72.8.

In the matter of homicides, Dodge had in the first half of his last year secured one conviction for first degree murder, with four acquittals, and twenty-two discharges. In his whole final year he obtained only two convictions. Dewey in his first half-year had eleven convictions, with only three acquittals and two discharges.

When he entered office January 1, 1938, he had found one hundred and fifty-eight felony defendants in prison awaiting grand jury action. On June 30, there were only twenty-seven. As he put it: 'Long delays where prisoners are left in jail pending action of the grand jury are a grave invasion of the right of the accused to prompt exoneration or indictment.'

It did not need those exact figures to convince the public that Dewey was a man of superlative energy and ability, whom the public needed in a wider field. Again in May the Republicans had demanded that he permit his name to be put up as their candidate for Governor.

But, already in May he had attacked the highest of the higher-ups in city politics.

## Chapter XXI • A GIFT OF SILK SHIRTS

It sounds like something out of Grimms' fairy tales in which old-fashioned sheltered children were told of ogres and witches doing deeds so hideous that they became almost funny. But our newspaper-reading, radio-serenaded people hear such things as these words of Dewey in May, 1937:

'There were murders while the Schultz mob was taking over the policy racket: men disappeared and their bodies turned up in a particular police precinct where the Schultz mob hated the police captain and wanted to give him extra trouble and hard work.'

That picture of a gangster dumping corpses on a policeman just for spite is grotesque to the breaking point. But Schultz, with his fabulous income, could afford his little whims. When he took over the bigger banks in the policy business, it was not a racket and was grossing only \$25,000 to \$30,000 a day. Under his monopolizing skill and powerful political protection, the business grew to \$63,000 a day — \$20,000,000 a year. That was later proved by Dewey in court.

This vast amount of bloody money was not taken from gold or diamond mines or great railroad or steamship trusts; it was taken mainly from the pennies of Negroes in Harlem, most of them desperately poor and some of them so superstitious that they picked the numbers they bet on from dreams interpreted by a dream book.

They put up their nickels and dimes for the privilege of guessing at three numbers from 000 to 999. For a time these numbers had been chosen from clearing-house figures published daily in the newspapers; later from total Stock Ex-

change sales; finally from certain horse-racing figures. The person who guessed the exact combination of three was paid 600 to 1. But the odds for the 'banker' were 1000 to 1.

The bettors wrote their guesses on bits of paper called 'slips' and left them with the cash at small shops, or elsewhere. They were picked up by 'collectors' and taken to central offices or 'banks.' At first there was no way for the bankers to fix the figures, and enough people won just often enough to keep the losers trying again and again. Once in a long while a 'bad' number would come up, such as the day of the month, which many people regularly played. Then so many people had selected the lucky number that the 'banks' were wrecked.

This hazard annoyed the gamblers. Real gamblers do not like to gamble. But the policy managers saw no way of avoiding risk till Dutch Schultz came along and took over, and combined the game into a great racket. Before his day the policy game had been handled by a large number of independent individuals, and some of them were very quaint individuals: West Indian Negroes, Haitians, Cubans, and a few native Americans, almost all of them Negroes and dealing with Negroes — such people as Miro, Pompey, Ison, Brunder, and several women. There was one successful white man among them, Maloney, a friend of the Tammany leader, James J. Hines.

Such was the game when Dewey first looked into it, back in 1931, while he was Chief Assistant United States Attorney. One of the first persons he had prosecuted was Henry Miro, who had evaded his income tax on \$130,000, as was stated in the chapters devoted to that period. Miro's lawyer was J. Richard Davis, who was destined to have much more conflict with Dewey.

In the Miro case, Dewey had come across Miro's handsome gift of silk shirts to the powerful James J. Hines — an odd thing and one, 'when found, to make note on.' It hinted that Hines might have been taking part in the protection of individual policy dealers. Dewey had also prosecuted the policy king, Brunder, for evasion of an income tax on nearly a million dollars, and sent him to the penitentiary.



These cases against Miro and Brunder had been the first important attacks in many years. At that time there were ten or fifteen different kings and princes running the policy business in Harlem and grossing, as the evidence established, ten or fifteen million dollars a year. That sum was big enough to interest the roving eye of Dutch Schultz and he decided to add it to his other monopolies. He was a man of intelligence and realized that he needed the ten or fifteen bankers in business because of their expert knowledge and their established organizations. He offered them jobs in his forthcoming trust with steady salaries — and also protection from too much police interference and from magistrates who were too free with jail sentences.

Even at that, the bankers were reluctant to give up their independence and they did not yield without a struggle. Schultz had a hasty temper, but he rarely shot even his friends if they admitted his supremacy and did not try to hold out any of the money he let them collect for him.

Although usually the mere threat of slaughter sufficed, it took several murders to get the policy business entirely subdued. Before long, Pompey, Miro, Brunder, Ison, and the rest were working for Schultz. There was only one banker outside his realm, Maloney. There was a sort of armed truce while Maloney's friend, Hines, was taking a vacation in Hot Springs. When he came back he managed by his genial genius to reconcile Maloney and Schultz and take them both, and their business, under the protecting wings of his immense political power. This partnership of Schultz and Hines was consummated in 1932.

Hines was so potent and so obliging that, with his consent, Schultz let it be known what a friend he had in Tammany. Within six months the take rose from \$30,000 a day to \$63,000. The Hines prestige and security, added to the ruthlessness of Schultz, ended all wars and the policy game had now become a monopoly, a racket with political backing.

Among the petty lawyers who hovered about the policy game before Schultz came in was Dixie Davis, a small-town boy who made good in the big city, worked his way through law school, and then, as Dewey said in a later speech:

'He branched out for himself, hanging around the magistrates' court, handling little policy cases. He came to know the little fellows in crime. He established a law office in the back room of a bail-bondman's office, and from a professional fixer learned the ropes. Soon he became known as "The Kid Mouthpiece." He shouted in the courtroom, but in the back room he whispered. And his clients seemed to go free with increasing regularity. By 1930, this youngster had become, in three short years, the leading lawyer for the policy boys.'

### 'THE KID MOUTHPIECE'

It was only natural that such a clever young man as Davis should finally attract the attention of such a clever young man as Dutch Schultz and in 1932 Davis became not only Schultz's lawyer, but also general counsel to his criminal enterprises. The association was so profitable to both that, as Dewey said:

'In the seven years since 1930, Davis achieved the kind of success that he wanted. His law office, so-called, was a whole floor of the skyscraper at 1450 Broadway. The rent was \$13,000 a year. He was a home-loving fellow, with three separate establishments, one on West End Avenue, another on Park Avenue, and still a third, a penthouse on East Ninety-Second Street. His wardrobe included sixteen suits of clothes for which he paid \$165 each. His overcoats cost \$190 apiece and his shirts from eight dollars up. A well-known patron of the night clubs, he became the intimate friend and associate of the most powerful district politician in New York.'

This was James J. Hines, the very useful friend of Schultz, who naturally introduced him to his very useful lawyer Dixie Davis. The two worked together thenceforward cutting the tiresome arrests of policy men in half and getting dismissals for most of the few who were arrested.

In his book called *Crime Incorporated*, Martin Mooney wrote: 'A racketeer once said in my presence, "Give me the District Attorney and the other guys can have the cops, the politicians and a couple of judges."''

A new District Attorney was to be elected in 1933. Hines, who had been building his power and control over public officials for thirty years, decided to put his friend, Magistrate Dodge, in office. He secured, not only large financial contributions from Schultz, but also the usual troop of thugs to vote far and wide as floaters and to drive timid voters from the polls. Thus he secured the election of Mr. Dodge, whom Hines called 'stupid, respectable and "his" man.'

Dodge by no means put an end to the raids. He conducted an investigation of policy. The only thing strange about it was that the policy folk arrested were all so petty that they were easily replaced. The higher-ups were singularly immune.

The game went on and only one thing about it preyed on the strange soul of Dutch Schultz, half buccaneer, half miser that he was: there was too much uncertainty in the business. Even Schultz did not dare cut down the sacred and traditional odds, but he hated to pay money out. He kept fretting about the only other possibility — and it seemed to be an impossibility: Wasn't there somewhere a way to make sure of that fatal number?

When mankind poses a scientific problem, somebody is likely to come along and solve it. If you don't see what you want, ask for it. Schultz asked for it, and out of the clouds came a mysterious figure who granted Schultz his wish. This was a strange genius, a lightning calculator, Otto Berman, called 'Havasack' or 'Abadaba,' who was an official handicapper, and had access to the computation room of the pari-mutuel machines at some of the race-tracks where he was wasting his unique abilities. He was taken into the racket and all was smooth. Now the final number could be changed to suit any emergency.

Abadaba was paid ten thousand dollars a week, and used part of it on his last-minute bets and the greasing of certain important palms. Dewey's office proved the payments to him by the original documents of the telegraph company that transmitted the messages.

After the 'bankers' had made lists of all the thousands of policy slips brought in by their 'collectors' and added up their totals by adding machines, they would find which last

number had been most heavily played. Schultz's man, George Weinberg, would promptly call up Abadaba at the race-track and give him that number. By this time the first six races had been run, and only the seventh remained; but that was enough. Abadaba kept his eye on the board showing the betting odds and the grosses, and he had means of learning the final figure. If it were unfavorable, he turned in last-minute bets that changed it. Consequently, some other number, which only a few had guessed, would be announced for the pay-off.

And now banks were no longer wrecked, and undiminished hundreds of thousands of unsuspecting bettors poured into the coffers enough of their pittances to heap up a gross of \$63,000 a day.

The policy game was now a huge pyramid. At the bottom were the hundreds of thousands of bettors, heaping their nickels and dimes on a few thousand collectors; above them were a few hundred controllers; above them a few bankers; above them the select mob of lawyers, runners, and disciplinary gunmen; above them Hines and Schultz in dual glory.

#### THE INSATIABLE SCHULTZ

But still Schultz's greed was not quite sated. He had a sure thing in the numbers, he had a sure thing in political protection, but the business was expensive. He wanted to cut down the overhead. The gangster, like the grave, never says 'Enough!' And so, as his friend for a while, Lucky Luciano, had put his prostitutes and bookers on sweatshop wages, the insatiable Schultz decided to cut down the low percentages of his collectors.

With a last show of independence, they went on strike. These illegal solicitors actually hired a hall, packed it, and openly denounced their employers. For three days they shouted about their rights. It was almost as if a thousand burglars had held a convention in an open hall.

Even the politicians could not curb those noisy collectors, who finally forced Dutch Schultz to restore the old scale of wages. Which made him very petulant.

The story has already been told of how Dutch Schultz punished his right-hand man, Jules Martin, for cheating by shooting him in the mouth, to the great distress, anxiety, and indignation of J. Richard Davis, who was an eye-witness. Even Hines, who rushed to Albany at Schultz's behest, was so miffed when he heard just what had happened that he snubbed Schultz cold and went back to New York.

But some time before this, Schultz had found other troubles connected with his vast wealth. Back in 1931, as previously told, he had attracted the attention of Dewey as Chief Assistant United States Attorney. For three years Dewey had conducted the investigation of Dutch Schultz; and procured his indictment in 1933. Schultz became a fugitive, running his various enterprises from hiding, and did not return to public life until after Dewey had left the office of United States Attorney.

Dewey's successor, whom Roosevelt appointed, Martin J. Conboy, conducted the trial of the income-tax case. One jury disagreed and a second acquitted Schultz up in Malone. All would have been rosy now if there had not been a political earthquake that upset Tammany and put La Guardia and a reform administration in power. Worse yet, by a strange coincidence, the very month that Schultz was acquitted in the federal court, Dewey was brought out of private practice to be made Special Prosecutor for the County of New York.

It was in August, 1935, that the newly created office began its widespread investigations of many rackets, including policy. Schultz kept out of reach. No wonder he grew peevish. It is well grounded that the long hiding from the law and troubles with his men had thrown that none too sane mind off balance. At least it is known that in the summer of 1935 several of Schultz's trusted men disappeared for good. And it is reported that an equal number of heavy trunks were carried from his hotel room. He murdered Martin. And then in October, 1935, the murderer was murdered. But the racket carried on.

Almost at the outset of his long racket probe in 1935, Dewey had assigned his assistant, Charles P. Grimes, to its investigation with a small squad of detectives, trusted

policemen, and investigators. A weary grind of eighteen months was spent in learning the structure and the personnel, the drop stations, the bankers, all the details from bottom to top. A hundred times the office could have 'knocked over' a bank, and jailed a dozen collectors; but the object was the perfection of the case and real evidence against the top men.

It had been understood since 1932 in police circles that the Schultz mob owned policy, but the details of its capture were unknown. When Schultz was killed, and Dixie Davis was in hiding, the game went on with old associates of both Schultz and Lucky Luciano in control.

After eighteen months of work the Dewey men were ready to throw a net over the entire policy crowd in one vast sweep. Such a raid had never been attempted before. It was fifty raids in one. As there had never been a raid that so startled the town, there had never been one prepared and launched in such secrecy.

## Chapter XXII • A GATHERING AT THE CLAREMONT INN

THE policy men were the most wary of criminals. They knew all the tricks of detectives, all the wiles of shadowers. The seizing of one had always sent the rest off in all directions. Hence, the first problem was to find a cage for those who were to be captured, so that they could send no warnings to the others. Police stations were out of the question, since newspapermen are always there and the neighborhood is always interested. Dewey resolved to create his own station house. A study of upper New York provided the ideal spot and it was owned by the City — the famous Claremont Inn, on Riverside Drive near Grant's Tomb, a popular resort in summer, but boarded up in winter. And this was January, 1937. With fine help and co-operation from Park Commissioner Robert Moses, under whose wing the Claremont was, Dewey provided the old inn with the necessary telephone service for his men and with necessary comforts for his expected guests. It was a large place, and the captured could confer with one another, but with no one else. They would realize how completely their army had been absorbed: each would be tempted to be the first to turn State's evidence and save his own hide.

Dewey concealed the grand rendezvous, even from most of his own detectives, and had them meet at another spot supposedly for a raid on another racket. Since he needed reinforcements of policemen, Commissioner Valentine gave him a squad of 'rookies' from the Police Academy, who would presumably have no political or racketeering connections. They were told to telephone their families that

they would be absent for the night, then were taken to the Claremont in small groups.

Sergeant Grafenecker divided the detectives and the rookies into squads, each under a detective with sealed instructions to be at a certain place at exactly 6 P.M., then read his letter and strike sharply. At Claremont Inn, Dewey and some of his staff, Captain Dowd, and Grafenecker waited for telephonic news from the battle front. First came word that the Pompez bank had been seized; but by an unlucky chance Pompez was absent. Learning that his bank and bankers were captured, he fled all the way to Mexico. Ison was known to be already in France, though his bank had continued in business till now.

The few motorists who passed Claremont Inn that night must have assumed that a private reception was being held there, as car after car swirled into the driveway and deposited its freight of men and women. Each guest-in-spite-of-himself or herself was questioned at once by a member of Dewey's staff. Each lied, of course, but all grew anxious as they saw what a convention of old associates had gathered. It was something like that mass meeting when the collectors called a strike against Dutch Schultz. Only now it was Dewey that struck; Dutch Schultz was dead and his political partner Hines had no command over Dewey.

The deserted inn on Riverside Drive had seen many throngs in its ancient days and nights, but never an assembly quite like this. A few of the guests began at last to chatter. Little by little they gave evidence enough to convict Pompez and Ison, and strong evidence against other members of the Schultz mob, against Flores, the Maloneys, Miro, and Brunder. Dewey now had a fairly complete picture of the whole racket, but he still had to convince most of the ladies and gentlemen in policy that they were not the objects of prosecution, and their eventual freedom depended on their frankness and honesty. Refreshments were served and when the party was over, the guests were taken in batches to prison cells. Claremont Inn went back to its sleep of hibernation, once more a haunted house where only ghosts walked.



The classic raids of reformers have been preceded by fanfare, and followed by apology for the escape of their quarry. Dewey had made no noise before, during, or after his raid, and the policy folk could not be sure who had been captured, who had escaped, or, more terrifying still, who had begun to talk.

Harry Cole, Sol Gelb, and Mrs. Eunice Carter were assigned with Grimes to the case. Six months followed of the hardest work in breaking the arrested sixty-five, capturing those who had eluded the raids, getting evidence collected, evaluated, and arranged, indictments prepared, and a brand-new thing in criminal law made ready for the ordeal of the courts. Pompez, Ison, Schoenhaus, George Weinberg, and Dixie Davis were all named in the indictment which was finally handed up in July, 1937.

Pompez was in Mexico and three months' clever work by detectives was necessary to find him. It was after almost incredible difficulties that his whereabouts were discovered. He was arrested and held for extortion under the treaty with Mexico. Pompez was an American citizen and Grimes had to invoke the aid of Ambassador Josephus Daniels to get an American citizen expelled from Mexico. But this took time, and it was September, 1937, before Pompez suddenly decided to dismiss his expensive lawyers and come home.

By this time Dewey had been nominated for District Attorney and the news of the surrender of Pompez came in the midst of the campaign. In fact Pompez arrived at New York almost in the middle of one of Dewey's speeches.

In another of those addresses Dewey was able to combine an appeal for the defeat of criminal politics in New York with a bit of his business as Special Prosecutor. Knowing that his voice was being heard across the continent, since the whole nation was interested in his campaign, he called through the ether for somebody to bring in the elusive Dixie Davis:

'Five thousand dollars reward is offered. Not for Jesse James; not for Billy the Kid; not for the hold-up of the Deadwood stage, but for a young New York lawyer who betrayed his profession and turned gangster, and is now a

fugitive from justice. Tonight I am going to tell you why New York City had to take on the ways of the old Wild West, putting a price on a man's head.

'The man I am talking about is J. Richard Davis. Between them, by connivance and violence, Dutch Schultz and Davis directed the operations of one of the most menacing and murderous mobs that ever rode roughshod over a great city, while politically picked prosecutors slept soundly on their jobs.'

#### DIXIE DAVIS'S STORY

Dixie Davis has since published his own very picturesque reminiscences, and told how he used to sit by the radio in his concealment and listen to Dewey's campaign speeches. One night he heard his own name rolling out at him.

The old mythologists hardly dared ascribe to their deities the power the radio has put in reach of everybody nowadays. It is still a bit spooky to think of Dewey sitting in New York and sending his words forth to millions of listeners, one of whom was a fugitive he was hunting.

'Dewey's sentences slashed me to the marrow,' Davis says. 'What made it worse was that he talked of me sympathetically as if I were some misguided kid.'

George Weinberg, who was hiding out with Davis, had agreed with him that Dewey could never be elected because he could never carry Jimmy Hines's own district, since Hines was 'the most powerful individual political leader in New York.'

To the stupefaction of the gangsters, Dewey was elected. And carried Hines's own district! Thereupon Davis and the others burrowed deeper into concealment. Davis has made an interesting story of his life as a fugitive. In it he tells much of his sweetheart, Hope Dare. That red-haired beauty had been in early girlhood a star rider of bronchos in rodeos, and later a conspicuous showgirl with the Follies. The fearlessness and determination that gave her such success as she had won made her still braver in love. She dyed her bright red hair black and shared Dixie Davis's privations with a

courage and devotion that would have adorned a heroine in household fiction if her lover had been the martyr of a worthier cause. Her courage and self-sacrifice were the same in any case. She was at Davis's side when Dewey's offer of five thousand dollars reward rang in her ears.

One other mysterious person heard that offer. His name — or hers — has never been disclosed; but he or she sent word to Dewey that Dixie Davis could be found in a certain apartment in Philadelphia.

There was natural elation among Dewey's staff when at last this clue was handed in, but they feared that political influence might still shelter Davis in Philadelphia, and they proceeded with caution. This was one of the few occasions when one of Dewey's assistants went along on a police job. Grimes, Lieutenant Grafenecker, and Detectives Canavan and Cashman hurried to Philadelphia. They kept the secret even from the local detective assigned to guide them, until they reached Davis's apartment, surrounded it, and rang the doorbell.

By an extraordinary stroke of luck — good or bad, according to the point of view — George Weinberg, who was equally sought for, had dropped in for the night and was sleeping on the living-room couch. He answered drowsily: 'Wait till I put something on.'

Grafenecker called through the door: 'The next thing you put on will be a coffin if you don't open up. It's the law.'

Then Grafenecker and his companions rushed in to what might well have been a blast of machine-gunnery. They waited only long enough for Davis, Hope Dare, and Weinberg to put on their clothes. The three captives spent the rest of the night in separate cells, while Grimes was conferring with Dewey over the telephone at 3 A.M. as to the extradition procedure.

Philadelphia is legally a long way from New York, and a former Director of Public Safety there consented to act as counsel for the racketeers. He sued out a writ of habeas corpus, which the Philadelphia District Attorney promised to oppose, and did.

Davis's legal wife rushed to Philadelphia to weep over

him and offer her aid, but he declined to see her. He was as true to Hope Dare now as she had been to him. He offered to waive extradition if she were released. But she was under no charges and she sped to New York, where, Davis says, she used her influence to persuade Hines to use his famous influence. But Hines would neither lend a hand nor a penny. Then she tried desperately to find some of her rich admirers who would put up the enormous bail in which Davis was held. She failed in both endeavors, and Davis and Weinberg were soon in New York, deposited in the gloomy Tombs.

Davis pleaded for 'reasonable bail' and charged that a flow of 'poisoned venom' from Dewey's office had robbed him of the sacred presumption of innocence. 'This man Dewey alone inspired the vicious attacks,' he protested. 'The reason I became a fugitive was because I knew I was to become a political football. Sure, I represented Dutch Schultz in the policy game. But I only acted as an attorney.'

The day had gone, however, when an unscrupulous lawyer could do no wrong in New York; could aid and abet and encourage the foulest evils, yet retain immaculate legal purity himself. Davis's bail was set at \$150,000. His appeal for lower bail was denied, but the Appellate Division sitting in Brooklyn reduced it to \$75,000, which was still too high for him to meet.

After a while in the Tombs, Weinberg wrote a letter to Grimes seeking an interview. Grimes and Gelb answered it in person and Weinberg made it plain that he might be induced to turn State's evidence. They did not discourage this impulse. A day or two later Weinberg said that Dixie Davis wanted to talk with them. They did not refuse him the privilege.

Davis calls Grimes 'our Nemesis' and says of his moral suasion, 'It wasn't torture but it was psychology.' Instead of thumbscrews, the rack, and threats of hell on earth and hereafter, the Dewey system consisted in revealing some of the evidence already accumulated, exhibiting the charms of freedom and fresh air, and also indicating that the jig was up.

Weinberg broke first. He promised to plead guilty and tell what he knew. Suddenly the missing Harry Schoenhaus,

secretary-treasurer of the Schultz gang, surrendered. He, too, decided to plead guilty and testify. But Davis would not be persuaded. He had a serious throat affliction, infected tonsils, and Dewey secured permission from the judge for Davis to visit an outside doctor under guard.

It is a rule of the Tombs prison that inmates may have only one suit of clothes with them. After each of the doctor's painful treatments, Davis was in a state of perspiration so severe that there was danger of his catching cold, perhaps pneumonia, if he went back to his cell in wet clothes. So he was taken to Hope Dare's apartment where he kept his extra clothes. To Dewey's office the health of Davis was precious now.

Suddenly, on May 25, 1938, the newspapers brought out the biggest headlines that had ever greeted an act of Dewey's. These words towered across the continent:

'Dewey Arrests Hines!'

## Chapter XXIII · 'DEWEY ARRESTS HINES!'

IN A COMPLAINT signed by Assistant District Attorney Charles P. Grimes, James J. Hines was accused of influencing and intimidating judges and law-enforcement officers so that racketeers could operate unmolested. Going to Dewey's office, Hines surrendered. His bail was fixed at \$20,000. This was in striking contrast with the high bail imposed on Dixie Davis.

Hines had been an important figure in the Democratic National Convention of 1932 and had thrown all his influence behind Franklin D. Roosevelt while the other Tammany leaders were fighting for Alfred E. Smith. Roosevelt won his election as Governor in 1928 by just 26,000 votes. It was said by Dixie Davis that Hines, with the help of the Schultz mob, added a goodly portion of votes to Roosevelt's score.

According to William Fulton in the *Chicago Tribune*:

As a reward for his help in 1932, and his services on election days since, Hines has enjoyed the unofficial post of chief patronage dispenser of the Roosevelt Administration in New York. The bulk of the federal payroll here owes its jobs to Hines.

When Hines was arraigned, his counsel asked for low bail on the grounds that President Roosevelt had praised Hines for his humanitarianism. Hines often visited Roosevelt at Albany when he was Governor, and has been the President's guest at the White House on several occasions.

In the *New York Sun*, George Van Slyke wrote of the weekly round-up of Tammany Hall chiefs for conference,

and said they all agreed that Hines's plight was a blow to Postmaster General Farley and that the New Deal had suffered even more than the Tammany tiger.

The indictment returned the day after Hines's arrest charged that he was an actual member of the Schultz mob and had received a weekly stipend for his services. Included in the indictment were nine defendants: Hines, Davis, George Weinberg, Harry Schoenhaus, Bo Weinberg (believed but not known to be dead), John Cooney and Sol Girsch (both of whom later pleaded guilty), Harry Wolf (only recently captured), and Martin Weintraub.

Hines denied everything; and former District Attorney Dodge, who had frankly announced when he ran for office that he was proud to be a member of Tammany Hall and would make no appointment without consulting its leader, came out now to proclaim:

'Hines is a friend of mine, and I will never desert a friend. I believe he is innocent.'

The press of the nation boiled over. Nearly every community had its Tammany. Many of the big cities had their policy problems, too. In the national capital, the *Star* stated that the numbers racket took \$30,000,000 a year out of the large colored population of Washington.

Dewey was becoming more and more a national figure, and a national hope. Seven years of conspicuous service were having their cumulative effect. Every newspaper had its Dewey cartoons. Headline writers did their utmost:

'Dewey Strikes Deep.' 'Dewey Hooks a Big One.' 'Dewey Takes on a Giant.' 'Owosso Tackles a Tammany Sachem.' 'The Indictment of Hines Shatters Old Legend of Untouchability.'

Meanwhile, the staff handling the Hines case was enlarged. One of the chief trial assistants of the Homicide Bureau, Herman McCarthy; the Administrative Assistant, Frank S. Hogan, were added, with Livingston Goddard, who had been working on the case, under Grimes, for almost two years.

The staff went on busily gathering evidence. Many witnesses were placed under stout guard to save them from assassination. For the air bristled with terror of murder.

In this air filled with storm, Luciano, having been rebuffed by the Court of Appeals, briefly reminded the public of himself by appealing to the Supreme Court of the United States. But the court was not in session and the decision could not be rendered for many months. The public watched the Hines case as if it were a new cinematic thriller.

The papers were packed with every kind of story, mostly sheer speculation, because Dewey's office was working quietly according to its custom and little actual news could be gleaned. The press recalled how the former policy king, Miro, had sent to Hines in 1930 a dozen 'magnificent monogrammed silk shirts that cost \$14.10 each.' Why was a policy king giving the political leader of New York such gifts? they wondered. George Carroll wrote it up as a 'tale of twelve Silk Shirts that placed Dewey on the trail of Boss Hines, more than six years before. Like the pebble that loosens the landslide, Jose Enrique Miro's midsummer present was destined to loosen a landslide on the head of Jimmy Hines.'

Hines and his lawyer, Lloyd Paul Stryker, used every known device to shake off prosecution. On June 6, Stryker said: 'Dewey wants to stage a Ringling Brothers circus with Hines as the gorilla — solely for the purpose of advancing his political ambitions. . . . He has started a reign of terror in which every Democratic judge is left under a cloud of suspicion.' He asked for a change of venue so that Hines might have a 'fair trial.' He petitioned also for a severance from the other defendants, and for a bill of particulars.

Grimes opposed all Stryker's moves and the plea for change of venue was denied.

The staff was questioning or investigating in all directions. Herman McCarthy brought in Hines's two sons and their bank accounts before the grand jury, and questioned two of Dodge's former aides. Gelb was busy tracking down non-accomplice corroboration. Hogan reached out to the State prisons for information, questioned three of Luciano's henchmen, and had John J. Williams, business agent of the cafeteria union, brought down from Sing Sing, along with the restaurant racketeer, Paul Coulcher, and the two lawyers



Cohen and Vogelstein. Hogan also gently questioned the widow of Schultz several times. McCarthy questioned two powerful Tammany leaders. One of these was the former chief sachem, John F. Curry.

#### HINES COMES TO COURT

On July 11, 1938, Hines and Davis were brought before Justice Pecora. Both pleaded not guilty. Their trial was set for August 15. But Dewey came to clash with Judge Pecora when the latter sustained eight items in Hines's motions and ordered Dewey to give a bill of particulars as to just what judges Hines had tried 'to influence, intimidate, or bribe.' Dewey was so determined not to reveal this part of his case that he moved for a reargument of the motion and secured a modification of the order.

It was interesting that another judge, Magistrate Frank Oliver in Felony Court, on June 15, complimented one of Dewey's prosecutors for saving a youth from being indicted for a hold-up, because of the neglect of a 'buck-passing magistrate,' and said: 'Mr. Dewey has installed a new system of prosecution, which has aided the magistrates to reach a high plane of justice. I never am so inspired, so pleased and so perfectly mentally content as while I am working with the members of Mr. Dewey's staff.'

Though George Weinberg and Harry Schoenhaus had broken, pleaded guilty, and consented to turn State's evidence, Dixie Davis held out. Finally he consented to plead guilty and help by giving information privately. This he did in great quantities throughout June, July, and August of 1938. But he still refused to testify in court as to Hines and the others; since, he said, he would not be allowed to live if he squealed.

He was curiously jolted out of this position by an eruption of news that also jarred Dewey and his office and the public: On one of his visits to his doctor, Davis's guards had let him take a meal in a pleasant restaurant outside the Tombs. An alert newspaper cameraman saw him there and snapped him. The picture made a sensation. But it was nothing to

the crash on July 23, when the New York *Mirror* came out in a front-page story declaring that Dixie Davis was a frequent visitor at the apartment of Hope Dare. The story was illustrated with a photograph alleged to have been taken by a cameraman in ambush across the street. It purported to show Davis and Hope at her window. The visits were facts and a tremendous storm was raised about such coddling of a prisoner and his inamorata. Dewey took the abuse and kept silence.

The truth was that Davis had been allowed to go to Hope Dare's apartment exactly eight times in three months. He had met her there with her mother and his guards, and had changed his clothes in the presence of the guards.

Even the few visits were news to Dewey and he ordered them discontinued, before Judge Pecora expressed his own indignation and refused to sign any further permits for Davis to leave the Tombs.

There was a curious result of this incident. The visits proved, the newspapers agreed, that Davis could only have gained the privilege of these reunions with his sweetheart by promising to turn State's evidence. The press was mistaken, but it expressed the feeling of the whole underworld, which seethed with excitement on the assumption that Davis, who knew all, had talked. In truth, he had talked, but was still unwilling to take the burden of being a witness. The newspaper stories shocked him and he asked to see Dewey. Davis himself has described that encounter.

The two lawyers had not met since they were on opposite sides as counsel in the prosecution of Miro six years before. According to Davis's story Dewey smiled and grasped his hand with a cheerful 'Hello, Dick.' He remarked on the long time since their last meeting, asked after his prisoner's throat condition; told him he was foolish not to turn State's evidence and dissociate himself from the underworld code.

Davis promised to think it over.

He returned to the Tombs and received there a message from his sister; a character known to them both had accosted her on the street, and muttered a warning that if Dixie talked he died. In prison or out he would be got.

#### DIXIE DAVIS THINKS IT OVER

Feeling doomed, Davis sent for Grimes and said: 'Nobody will believe me whatever I do. I might as well go all the way. I'll testify in court.'

The first of many personal clashes in court between Dewey and Hines's counsel, Lloyd Stryker, broke out when Dewey moved for an order for a special panel of two hundred from which to select the trial jurors. Stryker subpoenaed County Clerk Watson, who had succeeded Marinelli, and demanded to know if Dewey had given the county clerk a list of jurors who had voted not guilty in other cases.

As Watson answered, 'No, no!' Dewey flushed and sprang up to say: 'Because of what I consider a slimy insinuation unworthy of any member of the New York Bar, I would like to ask Mr. Watson whether or not to his knowledge any juror has ever been stricken from the panel because he had or had not voted conviction or acquittal.'

'Never,' said Watson. 'Never in the history of the office has there ever been any information imparted to the county clerk concerning the action of a particular juror. . . . Such a thing is unheard of.'

Now Dixie Davis came into court and Pecora accepted his plea of guilty, but once more scolded Dewey for allowing Davis to visit Hope Dare. Dewey said nothing. However, at Dewey's request, Pecora dropped the bail of \$75,000 and paroled Davis in Dewey's custody. Davis was promptly rushed to a hiding place and kept hidden and heavily guarded in company with George Weinberg and Schoenhaus.

Their very lives depended upon both the secrecy and the strength of their guards; for the machine gun and the armored automobile gave criminals the power of motorized artillery.

Complying with Judge Pecora's insistence that Dewey

give a bill of particulars as to the judges and other officials he had accused Hines of influencing, Dewey reluctantly named former District Attorney Dodge, Magistrate Hulon Capshaw, and Magistrate Francis J. Erwin, who had recently died.

Capshaw was at once relieved of his duties by the Chief Magistrate. Dodge, who was now in private practice, characterized Dewey's charges as 'an outrageous and malicious assault upon my office. During my term as District Attorney more than seven thousand prosecutions were conducted by my office.'

Dewey said he regretted dragging Erwin from his tomb. But Schultz and many others were equally dead, and the whole trial was almost a drama in the graveyard.

#### RESISTING POLITICAL PRESSURE

All this while there was more and more talk of Dewey as the Republican candidate for successor to Governor Lehman. On May 16, 1938, an up-state Republican chief had announced that Dewey was the choice of a detailed county canvass. Dewey made no comment, but a letter he had written months before was made public at this time by the recipient, and served to answer both.

'I am grateful indeed... but I am devoting all my time to my duties as District Attorney of New York County, and I am not a candidate for any other office.'

When a state convention of Young Republican Clubs at Niagara Falls on May 27 proposed to draft him, he telegraphed:

'I have just been advised that a resolution recommending my nomination for Governor of the State of New York has been proposed. I must advise you that such a resolution is directly contrary to my wishes. I am not a candidate for any office. Any attempt to inject my name into politics prejudices my work in the performance of my official duties and I earnestly request that the resolution be withdrawn, or defeated on the floor.'

In a curiously twisted compliment, the president of Co-

lumbia University, Doctor Nicholas Murray Butler, protested that Dewey should stick to his job and 'under no circumstances allow himself to run for Governor, or President, or Emperor, or anything else. He should remain at his post to clean up the city and make it a different place for our children to grow up in.'

The Democrats were so alarmed by his popularity that they cast about for an opponent, and could find none except the very successful Governor Lehman. But Lehman was tired of Albany and had his heart set on the United States Senate.

More and more Republicans declared that the convention would stampede to Dewey and force him to run. Even Hines's lawyer, Stryker, in a court argument when Dewey was not present, demanded that he state flatly whether or not he would accept the nomination for Governor:

'Dewey must get Hines to get the nomination. Let Mr. Dewey say that if the nomination is offered him, he will not serve. Then this case will cease to be a political football and a springboard from which he hopes to reach high office.'

Dewey's assistant, Charles P. Grimes, who was present, said that politics was not before the court. Yet it was, for now Judge Pecora's name was put forward as a candidate for Governor to offset Dewey. And Pecora had been a loyal Tammany man.

It was a strange situation: a prosecutor and a judge as potential nominees of rival political parties, and the man on trial the most powerful leader in the judge's party. Judge Pecora was in a difficult position. But so was Dewey. So was Hines.

While the Hines trial was being made ready to the last detail, other branches of Dewey's staff were busily at work in their fields. They now disclosed to the public view another scandalous condition of long standing, which his staff had been investigating for over a year.

The enormous growth of the taxicab industry with its group-wars had attracted the inevitable seekers for illicit money, and the Rackets Bureau indicted in June, 1938, a large mob that had created a monopoly in the taxicab industry by the usual methods of violence.

Among the less handsome parasites on the taxicabs were Joseph Biondo, John Andosca, and Lorenzo Brescia, alias 'Chappie.' Biondo was long an associate of Dutch Schultz, and a close friend of Marinelli's. He was president and sales manager of a Brooklyn motor company and an important political figure in lower East Side politics. He had a long record of arrests, and only one conviction. Chappie was a close associate of Luciano — had testified for him at Luciano's trial. The Rackets Bureau learned that a mob had gained control over the Taxi Chauffeurs' Union and had then begun to threaten taxicab companies that their men would damage the cabs, turn them upside down in the street, frighten off their fares, and beat up their drivers. By mingling demonstrations with demands the mob had extorted more than \$60,000 in one year. Biondo and seven others were indicted for extortion. Chappie and three others had fled. One of them, Andosca, was captured later. This quick action nipped, not in the bud but in full bloom, a plot to take over the entire taxicab industry.

Out of the taxicab investigation suddenly another scandal broke. Dewey arrested the first state legislator to be indicted for bribery in New York in a generation. Assemblyman Edward S. Moran, Jr., of Brooklyn, was taken up on two indictments including four felony counts, charging him with selling his influence to two taxicab companies for \$20,000 in cash and \$16,000 in monthly payments of \$500 each. Moran had been chairman of the Joint Legislative Committee on Taxicab Operation and Fares. He pleaded not guilty and was released on \$10,000 bail.

An important politician, the State Motor Vehicle Commissioner, Charles A. Harnett, who had held the post for fourteen years, quietly went before the grand jury. He waived immunity and spread out his books. But the jury was not satisfied by his explanation of a certain sum of \$67,000 suspiciously accounted for on the books of one of the large taxicab companies. The case did not come to public knowledge for many months, however, though then with startling effect.

Meanwhile, the Indictment Bureau was investigating

charges against another public official, State Senator Julius S. Berg, who was chairman of the Senate Motor Vehicle Committee. The grand jury had already heard evidence against him on seventeen charges for grand larceny in connection with World's Fair concessions and liquor licenses. Berg was invited to give his side of the case to the District Attorney's office. He went to the hospital for a brief rest. He had borrowed \$40,000 ten days before. Returning to his office, he secured a pistol, and killed himself.

The still unpunished assassination of William Snyder had not been forgotten. On November 3, 1937, the day after election, Morris Goldis had been indicted. Now a new indictment was handed up by the grand jury in which his brother Wolfie, Max Silverman, and Samuel Schorr were joined with him in the charge of murder. The Goldis brothers at once offered to plead guilty to first degree manslaughter. Silverman and Schorr pleaded not guilty and were held for trial.

The mother of William Snyder had tramped the streets for years asking why the authorities did nothing to punish the murderers of her son. Now she told a reporter:

'Dewey is an angel. God sent him down to earth.'

Dewey's office was tested next in a clash with the famous criminal lawyer, Samuel S. Liebowitz, who had never in his long practice had a client convicted of first-degree murder. This perfect record was ruined when Dewey's office secured death sentences for Salvatore Gati, Liebowitz's client, and Charles Sberna, who were found guilty of first-degree murder for killing Patrolman John H. A. Wilson.

Dewey gives the credit for those convictions to Assistant District Attorney Jacob J. Rosenblum, to whose skill Dewey entrusted most of his homicide problems. This was the Homicide Bureau's tenth consecutive victory in capital cases. The capture of the murderers had been a piece of detective work that surpassed most fictional stories. It involved the finding of a smudge of hot sealing wax on the sleeve of a coat, then a cleaner's tag, then a house-to-house search by one hundred policemen for a man with a burned hand.

In numberless fields Dewey's eighty assistants went their

way, burrowing secretly and tirelessly through bank accounts, letter files, daybooks and ledgers, and police records. They were trying cases nearly every day in fourteen courts, conducting investigations before five grand juries, carrying appeals in all the appellate courts of New York and the Supreme Court of the United States simultaneously, and at the same time doing what they could in behalf of misguided offenders and victims.

And so at last the office came to its supreme encounter, the public trial of the chief figure in Tammany Hall.



## Chapter XXIV • THE FIRST HINES TRIAL

WHEN the Hines trial opened, the only co-defendant left with Hines was Martin Weintraub. Of the other seven, Davis, Weinberg, and Schoenhaus had turned State's evidence; one was believed dead, and three were not yet captured. Before selecting the jurors Dewey moved a severance of Weintraub's case, since it would take only a day or two. There was no objection from the defense and Judge Pecora granted the motion.

Hines was now alone.

He, too, had climbed far from humble origins. He had been a blacksmith, and whatever he may have been doing with the other side of his soul, he was a genial man to the public eye. He was of a forgiving disposition, too, for he spoke to the reporters about Dewey and sighed:

'Young men are cruel. Don't forget that. Dewey isn't exactly young, but he's not an old man. Still, don't think I'm being persecuted. He's all right.'

In a day and a half the jury was selected, and on August 17 Dewey began his long opening address. He stated that he was 'counsel to the People of the State of New York' and so spoke. The first count of the indictment, he explained, charged Hines with a general conspiracy to operate lotteries — the numbers games, or policy. Conducting such games was a criminal enterprise. The other counts charged felonies, giving specific dates. Each act was a separate felony.

He then gave a description of how the game was worked, mainly among the very poor. He showed the jury a policy slip, talked of dream books and other methods in use among

the superstitious victims. He told how the gamble had finally been changed to a sure thing through the cleverness of Abadaba, the lightning calculator.

Dutch Schultz's story was told and Hines was brought into the combination as 'the man who made this huge lottery enterprise possible, by providing protection.' His activity was described along with his choice of Dodge for District Attorney, and his control of the police and certain magistrates. Dixie Davis was brought into the story and his eight visits to Hope Dare's apartment frankly described. But, Dewey insisted, two detectives and the girl's mother were always present, and he rebuked 'anybody who had been reveling in ideas that the District Attorney was conniving at adultery.'

While five thousand people were engaged in the policy racket, he said, he had reduced the number of witnesses to fifty-five; all of them equally important. Some of them were 'very unfriendly to the Prosecutor,' and some would 'lie like troopers.' He promised to cut out ninety per cent of the material in his possession and call only 'the witnesses that are relevant and important, to give the mosaic of one of the most complicated racket structures that ever existed.'

Dewey spoke simply, without eloquence or denunciation, but Stryker followed in flowery vein with an old-fashioned lawyer's way of stringing synonyms in clusters of tautology. He rarely left a word to walk alone. 'I shall show you that each and every one of these charges is false and untrue. I shall show you that at no time and at no place did Hines ever contrive, propose, or draw any lottery.' Dewey's accusation that Hines influenced judges was 'a diabolical falsehood.' When Dewey told the witnesses that he was not interested in the small fry, but wanted the men higher up, they naturally 'gave him what he wanted. And I shall show you that what you are listening to is the rawest, rankest perjury that any jury in this county has ever been asked to listen to.'

Stryker charged that when Davis turned State's evidence, he 'contrived, proposed, and fomented the lowest conspiracy that has ever been concocted in this jurisdiction' to implicate an innocent man 'who has lived in this community with

his family all his life.' Stryker assured the jury that Dewey's witnesses would testify to 'the blackest lies that you will ever hear from this time on to the date of your several deaths.' He promised to defend the memory of the dead Judge Erwin against 'the wicked, black, poisonous lie that has been uttered against the man who on earth can never talk again.' He called on the jury to remember their 'obligation registered under an oath in Heaven.' He promised to 'do what I can in my poor power as an officer of the court' to help the jury to decide the case 'according to the evidence, so help you God. I will do what I can to help.'

#### HOW THE CONSPIRACY WORKED

Dewey's first witness was Wilfred Brunder, born in the British West Indies, who told of his part in the policy racket and described how it was worked.

Suddenly Stryker attacked Dewey's whole plan of procedure by claiming that legally Dewey must prove the existence of a conspiracy involving Hines before he could bring in any other testimony. This was startling doctrine, since the normal way to prove a conspiracy would be to build up the evidence by testimony and let the conspiracy gradually appear. The legality of such procedure had been unquestioned, and it was fully sustained later. But Judge Pecora would not even listen to Dewey's arguments. He demanded the instant proof of conspiracy.

Dewey demurred, but did not even ask for a recess to rearrange his shattered plans. He simply called George Weinberg to the stand. Weinberg testified that he had met Hines at a previously arranged conference in Dutch Schultz's apartment where Schultz told Hines that he must have the right kind of protection; he could strong-arm the bankers, but he couldn't protect his men from the law; he wanted no more police drives and he wanted things arranged in the magistrates' courts. Weinberg testified that Hines said he didn't control the whole police department, but he could **handle** the Sixth Division in Harlem, and take care of the **magistrates' courts**. Schultz might with discretion use his name.

Weinberg also testified that Schultz then paid Hines a thousand dollars and instructed Weinberg to pay him five hundred dollars every week, and 'any other reasonable amounts up to a thousand dollars.' This he did up to June, 1935, when, on account of hard times, Schultz cut the salary in half, with Hines's consent. Weinberg told of Hines's constant association and activity in keeping policy arrests down and having persistently annoying policemen transferred and reduced.

#### TYING HINES INTO THE CASE

That was certainly tying Hines into the case, and Weinberg pointed him out where he sat in the courtroom.

On cross-examination Stryker remarked that all of the guests at the alleged meeting in Schultz's apartment were dead except Hines and Weinberg; and he made Weinberg confess that he had committed perjury on previous occasions. But he was not materially shaken.

The next day Dewey began his case all over again with the recall of Wilfred Brunder, then followed him with a motley array of figures in the policy racket: Pompez, Ison, Flores, and many others, including several women.

Ten days after the trial began, the testimony had already filled 2402 pages and was estimated at 520,000 words. This was only the beginning. The whole record filled 4600 pages. Manifestly this million of words cannot be even summarized here.

Stryker's main effort in cross-examination was, of course, to discredit every witness who claimed to have seen Hines in the company of Schultz. For the People, Grimes and Gelb questioned most of the witnesses, Dewey examining only the principal ones. One of his witnesses, at that very time a district captain for Hines, delighted the defense by alleging that he had been coerced by the prosecution. Dewey disowned him and destroyed him by confronting him with a signed statement and his voluntary testimony before the grand jury; then sent him off to jail for future attention as a perjurer.

After many bristling debates with Stryker and with the Judge, Dewey recalled Weinberg who testified that he had heard Hines ask Magistrate Capshaw to dismiss the charges against Weinberg and fourteen other policy men taken in a raid on the Pompey bank; and that he had heard Capshaw tell Hines, 'I have never failed you yet. I will take care of it!' He told how Capshaw and other magistrates had taken care of other arrests. He testified to paying Hines his salary weekly at his home at 444 Central Park West, among other places. When the defense sought to prove that Hines did not live at that address at the time and Weinberg stuck to his story, Hines leaped up and shouted: 'You know you lie!'

He was ordered to sit down by the court and it seemed to be an ineffective bit of rehearsed stage-play. Hines's voice was not heard again during the trial. Weinberg told of Schultz's assistance in the election of Dodge and his contribution of \$30,000, half of which Weinberg himself put in Hines's hands.

As a relief from the long line of shady witnesses he had called to prove Hines's connection with Schultz, Dewey began on August 24 to buttress their testimony with a great array of highly respectable witnesses, lawyers, business men, and others, including Dodge's own campaign manager who had been sent to Hines for campaign money. Dewey brought it out that at least \$11,000 cash was passed at various times, always in large bills.

One of Dewey's most convincing witnesses came from a Connecticut riding school. He testified that Hines, who was a horse fancier, met Schultz at his academy while Schultz was a fugitive from justice. As one reporter put it: 'Dewey waited until five minutes before adjournment for the day to deliver this wallop. The timing was perfect.'

Smilingly he invited Stryker to cross-examine; but Stryker called for adjournment; and next day had no success.

With a curious timeliness certain policemen made a raid and arrested two of Dewey's previous policy witnesses. The news of this was published alongside pictures of Hines as a happy family man with his wife, three sons, and three

daughters-in-law, all laughing. Other pictures showed him as 'a big-hearted political boss' on all fours, a laughing child riding his back.

On the same day the *New York Times* announced in headlines that the Republican chiefs had decided to draft Dewey for Governor whether the trial was finished or not; and that Lehman had refused to run again on the Democratic ticket.

But Dewey was all lawyer now and he continued his array of reputable people who had seen Hines with Schultz, including several who confirmed the riding master's testimony. Then he produced policemen who testified that they had raided the combination's policy rooms and had suffered for it by incurring Hines's displeasure and his power.

To continue the connection between the testimony of the policemen and Hines, Dewey put on the stand the former chief of Tammany, John F. Curry, whom Hines had made leader, and four years later unmade. Curry conceded that Hines had frequently asked for and secured transfers of policemen.

When Dewey asked, 'Being transferred is commonly known as "being broken," isn't it?'

'Mistrial!' shouted Stryker. 'I demand a mistrial!'

The laity in the courtroom were as much bewildered by such a demand as they were by the judge's hesitation before he refused it.

#### DIXIE DAVIS ON THE WITNESS STAND

At last Dixie Davis took the chair. He told much of his life-story and of the thousands he had paid to Hines, and he told how Dodge had thrown the 1935 grand jury off the trail of the rackets. He told how Hines at his advice had asked Max Steuer to save Dutch Schultz from prosecution for income-tax evasion.

He told of the runaway grand jury's fight with Dodge, the demand for a Special Prosecutor and the plan to appoint Dewey. This had alarmed Davis and he had warned Hines to see to it that Dodge did not appoint Dewey. Hines had agreed to warn Dodge. Later Davis took the well-known

criminal lawyer, James D. C. Murray, to impress on Hines Dewey's relentlessness as a prosecutor. Hines had seen Dodge and reported that Dodge said he would have to appoint Dewey if the Governor insisted. Davis told of his struggle to escape disbarment and his flight from prosecution after Schultz's death. Davis's record laid him open to ferocious cross-examination, and Stryker did not spare him.

A less vulnerable witness was the famous criminal lawyer, Max Steuer, legal adviser for Tammany, who testified that Hines had asked him to act as counsel for Dutch Schultz in his income-tax troubles. Steuer said he had looked into the matter, and when he found that the case could not be adjusted, he had lost interest. But his testimony was decisive corroboration of Davis.

A sister of Dixie Davis declared that she had delivered a check for five hundred dollars to Hines, and the check was submitted with an endorsement 'J. Hines' on the back. Dewey stated that the writing was not in Hines's own hand, but had been written there by someone who represented him.

He produced detectives and United States Treasury agents who gave evidence secured four years before by wire-tapping in the effort to locate Dutch Schultz on the federal charges. This showed Hines calling up Davis to get his weekly payment.

Harry Schoenhaus, who had been the bookkeeper of the Schultz mob, swore that Hines was on Schultz's payroll for three years, and told of paying him fifteen hundred dollars on election day in 1933 for Dodge's campaign.

The lawyer, James D. C. Murray, confirmed Davis's testimony that he had warned Hines not to permit Dewey to be appointed Special Prosecutor, since he would be relentless against anyone. The impact of this confirmation was devastating.

A fire chief from Troy, Democratic county leader there and an old friend of Hines, testified that Hines had telephoned him repeatedly and asked him to stop Troy's police from 'pushing Dutch Schultz around.'

After other witnesses had added important details to the picture of Hines's partnership in the policy racket, Dewey

rested his case. This was on September 7, the seventeenth day of the trial.

#### THE DEFENSE OPENS

As defense counsel always does, Stryker moved for a dismissal of all charges as not proved. Normally, this formality ends in the Judge's prompt denial, and the defense moves up its witnesses. But in this instance Judge Pecora's attitude was so encouraging to the defense that Stryker was stimulated to make a hard fight for his motion. Dewey fought back with a vigor that astonished the spectators and the nation, which was looking on through the newspapers.

Stryker supported his motion for dismissal by violent denunciation of Dewey's witnesses, and decried the conspiracy element of the case as both weak and outlawed by the statute of limitations, since the racket had died with Dutch Schultz. Dewey interposed that Hines had taken money as late as October, 1936, a year after Dutch Schultz died. For three hours and a half Stryker attacked the case against his client:

'There simply is not a shred of evidence in the nearly four thousand pages of the record that directly or indirectly, remotely or proximately, in any way whatever, proves or renders probable, or establishes in any way whatever, that Mr. Hines either did contrive, propose, or draw a lottery. That is so plain, it is so obvious, it is so clear, it is so unquestionable that I shall not elaborate it further.'

Judge Pecora stated that he also found weaknesses in Dewey's case as to the nature of the conspiracy and whether it had been outlawed or not. Dewey rebelled at this so hotly that Pecora said: 'You must not assume that I am playing the rôle of devil's advocate.'

He questioned his own jurisdiction, since the policy banks had been moved to New Jersey in 1935. Dewey answered this by pointing out that the bets had been collected in New York and paid in New York. He got ready with speed a twenty-six-page brief opposing dismissal. Stryker was unrestrained in his assault on Dewey, and openly accused him



of trying to pillory Hines to further his own political ambitions; of being willing to do anything, even to accept 'the testimony of the filthiest creatures imaginable, the kind you find when you turn over a mossy stone, in his lust to imprison a prominent Democratic politician.'

Of the prolonged and unusual conflict Edwin C. Hill wrote:

Mr. Dewey can get very tough. He wouldn't give an inch to the smiling suggestions of His Honor on the bench. It was not only the language employed by these distinguished lawyers which shocked the eardrums of listeners, but their combative manner. Stryker, red-faced and possessed of a robust temper, was like a big mastiff ready to leap and grab a throat. Dewey, cool, cold, low-voiced, was like a softly growling bull terrier willing to take on all comers if he could get in one good bite.

In his final speech Dewey expressed sarcastic surprise that Mr. Stryker should have referred to his own client's intimate associates as 'these gangsters' and the money Hines had accepted as 'dirty money.' He insisted that 'the testimony in the record is uncontroverted and unscratched in its fundamentals.' He reminded the court that fifty witnesses had given testimony and thirty of these had given direct corroboration.

The next day, September 8, Justice Pecora finally ruled that the case should go on. But he had merely postponed the fatal blow.

## Chapter XXV • MISTRIAL

THE case for the Hines defense was ended almost before it began, but its sudden finish rocked the nation and sent all the jurists, on the bench and in front of it, into a civil war of debate.

Stryker began with what he declared to be the exposure of great flaws in Dewey's case. Weinberg had said he looked out of a window in a room on his only visit to the office of Hines's lawyer, Shalleck. Stryker proved that the particular window did not exist. Dewey conceded this.

A young attorney, Lyon Boston, took the stand to refute the charge that District Attorney Dodge had been under Hines's control and had done what he could to discourage the investigation of policy and other rackets by the runaway grand jury, which had finally brought about Dewey's appointment in 1935.

A similar accusation against Dodge had been published by Martin Mooney in the *New York American*, and he had also at that time implicated Hines in the policy racket. The runaway grand jury had sent for Mooney and demanded the name of his informant. Mooney had stood on the practice of newspapermen to protect sources of information. When he refused to tell the grand jury, he had been put in jail for thirty days for contempt.

When Dodge took office January 1, 1934, he selected Boston as his newest and youngest Deputy Assistant District Attorney. There had been such clamor about policy that Dodge made an 'investigation' of nine months, with the result that one lawyer was jailed for contempt and a few collectors imprisoned. In 1935 there was another public pro-

test and Dodge designated Boston to work with that grand jury which was so disgusted that it became the 'runaway' and excluded Dodge, Boston, and other Assistant District Attorneys from its deliberations.

Under Stryker's soothing encouragement, Boston testified that he had, in his day, tried very hard, and that the police had made many arrests. He came at length to Dodge's war with the runaway grand jury, and Stryker told him to go ahead and tell 'the entire story' of his experience with that body in his own words.

This was a crucial invitation. Boston told how that grand jury had rebelled against Dodge and had begun to make investigations on its own initiative. He said that some of the grand jurors had shown 'a desire to indict Hines.' Dodge had expressed faith in Mr. Hines's innocence, yet had told Boston to go ahead and make the most thorough investigation possible.

When Boston had completed his loyal tribute to his former chief, Stryker presented him to Dewey for cross-examination. Promptly Dewey had Boston admitting that he had secured his post by reason of his father's position as a prominent lawyer, and that he had been put in charge of a most difficult investigation, though he had had no experience whatsoever with criminals 'except,' Boston admitted, 'as a child detective during the war.' He was about twelve years old at that time.

This sounded so ridiculous that Pecora intervened to ask if Dewey were trying to prove Boston incompetent.

To which Dewey answered: 'I want to show that this man was assigned to do the utterly impossible, all alone, and was deliberately so assigned by his superior.'

He went on to show that Boston was the lowest paid and least experienced man on Dodge's staff. His gentle but complete deflation of the witness was constantly interrupted by Stryker's objections, most of which Judge Pecora sustained.

Next, Dewey brought it out of Boston that Dodge had not actually mentioned Hines to him in 1934: not, indeed, until the second investigation of 1935. He also dragged forth an admission that Boston was in Boston at the time of a pent-

house raid which, he had claimed, had 'something to do with breaking up the Schultz gang.

Boston still insisted that his work had driven the policy banks out of New York. Yet, when asked if he didn't know that they had later been brought back to town, he admitted his ignorance of the fact. He still hoped, he said, that his own prosecutions had driven Schultz out of town. He gasped when Dewey proved that Schultz had fled to escape federal prosecution for income-tax evasion more than a year before Boston had even been appointed.

#### LYON BOSTON'S TESTIMONY

This was unpleasant news to Boston. Next he was confessing that he had never heard many things about the Schultz gang 'until this trial.' He also admitted that he had not been able to convict a single important figure in the policy racket — not even one of the controllers to say nothing of bankers or higher-ups, only the smallest of small fry.

Under Stryker's questioning, Boston had sought to give the impression that Dodge, far from protecting Hines, had directed a thorough investigation of his activities, that diligent investigation had produced no evidence against Hines except incompetent 'hearsay' evidence from newspapermen, and that the runaway grand jury had revolted for wholly capricious reasons. As Boston himself put it, in his opinion the grand jury ran away because of Dodge's very proper refusal to permit an indictment on the testimony of newspapermen and because another of Dodge's assistants had been 'rude' to the grand jury. If Boston's testimony was correct, it made Davis out to be a complete liar on a very important point — the squelching of the grand jury proceedings against him. Dewey knew that under Stryker's questioning, Boston had told less than half of the true story; that the grand jury had heard from the lips of such important men as Commissioner of Markets Morgan and Police Commissioner Valentine that Hines was behind other rackets such as poultry and slot machines, and that the grand jury ran away

because it was convinced that nothing would be done about it under the benevolent administration of Dodge. So Dewey now sought to get Boston to tell 'the entire story' to show that valuable leads had been presented to the grand jury indicating that Hines was mixed up in the rackets, but that Dodge had failed to pursue them, and that Boston was incapable of pursuing them even if he had been permitted to. Dewey asked Boston if Morgan had not discussed the subject before the grand jury.

'I don't recall that,' said Boston.

Then Dewey (acting on that lethal general invitation Stryker had extended to Boston to tell all he knew) asked the simple question which was to become famous.

'Don't you remember any testimony about Hines and the poultry racket there by him?'

While Boston hesitated, Stryker's assistant nudged his chief and gave him a whispered suggestion that sent Stryker into the air with a loud shout:

'I demand a mistrial! Your Honor! Your Honor! I demand a mistrial.'

Dewey answered, 'The subject was opened by the defense.' He referred to Stryker's instruction to Boston to tell the entire story of the runaway grand jury in his own words.

It is a well-grounded rule of law that if defense counsel, at his peril, chooses to 'open the door' to a subject matter by bringing out testimony as to a portion of it, the prosecution has the right to develop the entire matter so that the jury will not be given a false impression, even though the further development shows that the defendant has been involved in another crime.

In an article in the *Bar Bulletin* of October, 1938, published by the Boston Bar Association, Professor John M. Maguire of Harvard Law School, upholding Dewey's position, wrote:

The fact that Boston, in dealing with the desires of the runaway grand jury, ignored testimony from Commissioner Morgan which might at least have given valuable leads against Hines would be evidence that Boston had displayed incapacity.

Stryker continued to roar: 'I move for a mistrial, and the withdrawal of a juror.'

He was so vociferous that Pecora frowned and tried to quiet him; but he roared on until Pecora turned to Dewey: 'There was no such subject opened up, and I think you should not refer to it in any way, shape, or form.'

Knowing how well fortified he was by the authorities cited in his brief, Dewey said very quietly: 'I shall be glad to discuss it at the bench.'

But Stryker refused to confer and Pecora said that he would adjourn court, take the matter under advisement, and make his pronouncement on Monday.

It was now 2.20 P.M. Saturday and the abrupt break in the case created a furor.

On Sunday Dewey sent to Pecora's house a twenty-page brief pointing out that the question was legitimate. Stryker had a brief of his own ready to submit on Monday morning.

Ordinarily, a judge would have ruled, at worst, that Dewey's question was improper, and instructed the jury to disregard it. In view of the terrific charges piled up against Hines's share in the enormous policy racket, a mere unanswered question as to his association with a second racket could hardly have swayed the jury.

On Monday morning Pecora again adjourned court until 2 P.M. For two hours Dewey and Stryker argued questions of law in his chambers. In the afternoon he reopened court. But, instead of making a simple ruling on the question, he delivered a highly literary essay on law and justice. It was over two hours long.

Dewey had pleaded that, in any case, the disputed question could not have prejudiced justice.

Pecora replied: 'One little germ finding its way into the blood stream might cause the collapse of a person.'

Answering Dewey's claim that Pecora had been 'excessively fair and impartial and quick at every turn to protect the rights of the defendant,' Pecora said lightly that 'to this soft impeachment' he would 'humbly interpose a plea of *nolo contendere*.'

Answering Dewey's claim that 'it would be a travesty on

justice' to close the door to the prosecution on a subject the defense had opened, Pecora said he knew of 'no more deeply rooted rule of the law than that a man on trial for one crime could not be faced in the courtroom with evidence showing that he had committed another.'

The judge kept everybody in utter suspense for two hours, then closed his lecture by ordering a juror withdrawn and granting the defense's motion for a mistrial.

#### MR. BROWN STEPS OUT

The clerk called to the foreman:

'Mr. Brown, step out, please.'

Mr. Brown stepped out.

After Foreman Brown left the box, the clerk of the court nervously asked Dewey an unexpected question: 'Do you wish to concur in the mistrial, Mr. Dewey?'

Dewey answered: 'I certainly do not. I am of the firm opinion that the question asked was correct and proper, as are the two chiefs of my Appeals Bureau and my Indictment Bureau, Felix Benvenga and Stanley Fuld. Unfortunately, however, the People of the State of New York have no appeal from this or any other of the decisions in this case.'

Few rulings in American legal history have created so violent a shock or such widespread debate among professional men as well as among the laity. The public is always impatient with the technicalities of bench and bar. It had only recently been encouraged to believe that at last a man named Dewey had found a way to cope with criminals. The general public now had its new hopes shattered, and it was in general outraged by the decision.

Hines was still under bail and subject to a second trial; but for the time he was a free man. And the public knew that second trials are generally a waste of time and money, and unsuccessful into the bargain. Hines's lawyers now had Dewey's whole strategy before them with no surprises to fear. They could prepare a defense against every attack.

The dismissed jury was indignant at the total futility of its service. One juror said that he didn't even hear Dewey's

question. Another said that it had no effect on his opinion.

Another juror asked the very vital question: 'If merely letting us hear the question prejudiced us beyond the possibility of a fair trial, how can any future jury be found that won't be far more prejudiced because of the immense publicity given to the unimportant question?'

When Hines walked down the courthouse steps in a state of natural delight, a throng of his friends cheered him as if he were a hero returning from the wars. There were wild scenes in the street. He was picked up and carried on the shoulders of his friends for a hundred yards.

When Dewey walked down the steps, a few of the spectators booed. He and his disconsolate staff went back to the office, brooding over the setback to their enormous labors and hopes. After an absence in his inner office just long enough to hang up his hat and his disappointment, Dewey rejoined his men, and, grinning, said: 'Don't worry, boys, there'll be another trial, and we'll win it!'

Dewey's only comment on the devastating decision was: 'Make no mistake about it. Hines will be brought to justice. I will move for a new trial at the earliest possible date. It will be the same identical indictment.'

He did ask for another judge, and carried the matter straight to Pecora, requesting him to yield jurisdiction and let the General Sessions Court also take over the sentencing of Davis, Weinberg, and Schoenhaus.

Pecora signed the order for the transfer of the trial, but kept to himself the sentencing of Davis, Weinberg, and Schoenhaus. Dewey moved immediately before Judge Charles C. Nott, Jr., for the second trial on November 14, and he asked for a special panel of five hundred members — three hundred more than the first panel.

Justice Pecora's ruling had national repercussions. There was hardly an editorial page in the country that did not give the decision elaborate consideration.

The New York *Times* doubted that Dewey's question could have been 'fatally prejudicial' as Pecora called it, since it took even Pecora so long to make up his own mind. He could have simply instructed the jury to ignore the ques-



tion; then, if Hines had been found guilty, the higher courts could have passed on it.

This editorial offended Justice Pecora as an unjust attack, and, according to a later *Times* editorial, he 'made another profound mistake of judgment by descending from the bench to discuss the merits of his own decision in a press interview and to disparage the ability of Dewey, the exceptional public servant who tried the case before him.'

Hundreds of lawyers were interviewed on the subject. Almost unanimously they rebuked Pecora. The press of the country was almost unanimous. Here and there, as in a paper published in Catskill, one read: 'The great trial of Hines that resulted so disastrously for Dewey indicates a lack of tact as well as the general weakness of his case. The wonder is the judge didn't throw it out before.'

But this was in the very region where the gangs hung out and where Legs Diamond had once won acquittal. Other citations from thousands indicate the more general opinion of the public.

'Such decisions disgust the people with the courts,' said the *Denver Post*. The *Chicago Tribune* took a political slant: 'Pecora is a Roosevelt pet. So is Hines. Hines was handpicked by Roosevelt and Farley to dispense New Deal patronage in Manhattan. The conviction of Hines would have all but guaranteed the election of Dewey as Governor, and this would have brought defeat to the New Deal in the largest state.'

'Justice Pecora did what other judges, more eminent than he, more experienced, and no less solicitous of the rights of the defendant, have refused to do in similar cases,' said the *Boston Herald*. 'There is no crook in New York or elsewhere, not a boodling politician, who will fail to exult in this setback for District Attorney Dewey.'

The New York *World-Telegram* was satiric: 'Five challenged words from Dewey — and Pecora deems it necessary to let four weeks of a momentous, costly trial go to waste!'

'The public has come out of this trial increasingly suspicious of the law and lawyers,' said the *New York News*. 'To think that the trial could go on for twenty-nine days

with a small fortune spent, with witnesses hidden out to keep them from being threatened or killed, and then to have it all called off! The stated reason for throwing the case out of the window was that Dewey asked one question out of turn, if indeed he did that.'

Reform was called for by the *Washington Star*: 'The unfortunate result of the case should focus public attention on the strong movement now under way to give the prosecution a right of appeal in criminal cases, which is denied at present in most jurisdictions.'

The decision undoubtedly hurt the popularity Justice Pecora had attained by his previous career, and he was no longer mentioned as a candidate for the governorship.

Some thought also that, as one paper expressed it, 'Dewey's goose was cooked.' But more agreed with the *New York Herald Tribune*:

'Dewey Tidal Wave is Unstoppable.'

## Chapter XXVI • NOMINATED FOR GOVERNOR

A POSTCARD poll taken in Buffalo had been reported on September 3 as giving Dewey a majority over all Republican candidates for Governor and fourteen per cent of the Democratic votes. The next day the New York *Enquirer's* headlines went even beyond the governorship problem.

Dewey's Presidential Boom Growing. Feeling for New York's Prosecutor Sweeping the Country. — Political forecasters declare that in Keokuk, Iowa, Neosho, Mo., Atascadero, Calif., Marlin, Tex., Oshkosh, Wis., and Owasco [*sic*] Mich., the Dewey boom for President is growing like a snowball rolling down a mountainside in a heavy blizzard. They add that in the big cities like San Francisco, Chicago, Philadelphia, where people are sick and tired of rackets and racketeers, admiration for Dewey is being expressed wherever two people gather to talk.

At this time a film based on Dewey's career and called 'Smashing the Rackets' was exhibited by RKO. But he refused to exploit his work on the screen. It was reported that 'Dewey threatened to sue any producer who linked his name with a film.'

Damon Runyon wrote in his column on September 5: 'We note in the public prints of many cities the oft-repeated cry, "What we need here is a Dewey." His name is almost a household word.'

But he was not the only popular figure. Jimmie Hines still inspired loyalty, and in the primary on September 21 won from his district a vote of complete confidence, by an increased majority, in an uncontested election. He was also

chosen as usual to lead the delegation from his district at the Democratic State Convention.

In the political pot Dewey's name continued to simmer to the boiling-over point.

The Democrats were groping frantically for a candidate to check him. Governor Lehman had already announced for the seat in the United States Senate, made vacant by the death of Senator Copeland. Senator Wagner, who was very popular with the public, was being urged to take the nomination for Governor, but the Senate was very popular with him. Lehman longed for Washington after his ten years in Albany, but there was talk of forcing him to succeed himself for four years more. That he would give up his announced desire to go to the Senate and yield again to party pressure, as he had in 1936, was suspected by few. As a matter of political history, Dewey was positively informed the day before he accepted the Republican nomination that Lehman would retire to private life rather than run again for the governorship.

The Republican State Convention opened September 28, just sixteen days after the Hines mistrial. It convened at Saratoga and listened the next day to a nineteen-plank platform which condemned the alliance between the underworld and politics, and the use of federal relief funds for Democratic political purposes. Inevitably it condemned the Democratic administrations, both state and national, and bewailed the shortcomings and fargoiings of the New Deal.

The platform was the shortest on record, and immediately after its adoption, Judge William F. Bleakley, who had been the Republican candidate for Governor in 1936, rose and made a ringing speech nominating a candidate for Governor.

The conclusion of the oration was the name of Thomas E. Dewey, and, according to a veteran reporter, George Van Slyke of the New York *Sun*:

The convention broke into one of the wildest demonstrations ever witnessed in a political convention. It was not like the orthodox demonstration of such conventions with rival candidates trying to outdo each other. This was unanimous.

Dewey banners appeared all over the hall. County delegations grabbed up the banners and paraded. They shouted

and they sang. For half an hour they kept it up. The overflow ran outside where nearly a thousand delegates and citizens took up the demonstration and started parading the streets. The convention and the city were turned into a Bedlam.

The half-dozen seconding speeches were barely heard. The bands kept going and the delegates refused to take their seats. The Republicans hadn't known any hour like this for twenty years. They had their man named; they had a new deal in politics; and they had a new leader.

No other candidate was even proposed, and at 12.12 noon on September 29, 1938, Dewey's nomination was made unanimous by acclamation on a rising vote.

#### 'THE BIGGER JOB, THE HARDER FIGHT'

Once he was in it, Dewey gave his heart to the next task before him. He was a Republican from infancy. He had been active in the Republican political organization. He had been bitterly opposed in his campaign for District Attorney by the Democrats in power, and he felt sincerely that they should be turned out.

He took the 1.20 train north, with three secretaries, two typewriters, and two assistants, and worked on his acceptance speech all the way to Saratoga, which he reached at night. The convention was in session, but the moment he appeared and took a seat on the platform, Bedlam was restored. It reigned for five minutes.

In his speech of acceptance Dewey referred to the task he was surrendering and the temptation to play safe and stick to it.

'But I should have been shirking the bigger job, the harder fight. Crime is wider than one county. A single District Attorney is like a deep-sea diver fighting an octopus, one arm at a time.

'Crime is the product of remote causes, of social pressure and political cynicism. There are economic, social, and political crimes, as well as legal crimes. . . . Politics has been made the biggest racket of them all. The word "politics" has come into disrespect. . . .

'The science of representative government should be — it must become — the most honorable profession. For politics is the life-blood of democracy.'

He praised the records of 'our party — the party of Theodore Roosevelt and Charles E. Hughes.' He deplored the decline of Republican power since their day. The two-party system of government, he said, had ceased to operate in New York State. 'Without meaning to be so, any Democratic Governor is perforce the good-will advertising, the window-dressing for what is in part at least a corrupt machine.' He upheld the rights of labor. He called for reform in the administration of relief. The state must own its sources of water power, but not use them for political issues.

The speech evoked high enthusiasm and a confidence that the long exile of the Republicans was over. Their very emblem had been relegated to second place on the ballots for years.

#### GOVERNOR LEHMAN MAKES A 'PERSONAL SACRIFICE'

The next day, at Rochester, the Democratic Convention waited in gloomy confusion until Postmaster General Farley strode in smiling at 9.45 A.M. and announced: 'The Governor will run again!'

Uproar followed. President Franklin D. Roosevelt sent a telegram and gave his support to the entire ticket as 'insuring the continuation of liberal government in my own state.' He praised Lehman for his 'personal sacrifice.' That was the word for it, since everybody knew that Lehman had most reluctantly resigned his dreams of the Senate.

His acceptance speech was almost entirely devoted to an attack on Dewey for accepting the Republican nomination. He said:

'I did not believe that Mr. Dewey would abandon, almost before it started, that important work for which he was chosen by the people less than a year ago and for the consummation of which he accepted an obligation to the people. Every man and woman knows of my deep interest in clean, honest government and in law enforcement, of which the

designation by me of Mr. Dewey, as Special Prosecutor to act against racketeering and corruption in New York City, was only a part.'

He told of his own achievements and termed Dewey 'entirely inexperienced in either administrative or legislative activities. There is no indication that he is familiar with either the fiscal or social problems of the government of a great state of thirteen million people.'

The Governor did not mention the fact that Dewey had served seven years as a public prosecutor in New York, which many people felt was his full share. Nor did Lehman mention Hines, who was present at the convention as a delegate and could hardly have relished the Governor's references to the rackets and corruption of New York and Dewey's 'dereliction' in leaving the work unfinished — which meant, of course, the Hines case unfinished.

Also, Lehman conveniently forgot that this trial was set for November 14, and that Dewey had arranged to try it without regard to the result of the election.

Yet Lehman's charge that Dewey was quitting an unfinished job struck at his Achilles' heel as a candidate for the governorship. Many of his most ardent admirers took an active or a passive part in the campaign to keep him in New York County. Dewey's only comment on Lehman's nomination was:

'It is interesting that the Democratic forces should again so desperately implore Governor Lehman to run again for an office from which he has twice stated his wish to retire.'

In his battle for the office of District Attorney, Dewey had been fighting corruption and little else in one county and one city. He had had the support of La Guardia, who had implored him to run. He had been backed by the American Labor Party. In his battle for the governorship, he would have to fight most reluctantly a governor of most excellent reputation, a wealthy man who did not need and did not seek dirty political money; a wealthy man who had won the enthusiastic support of political labor — yet had left many ugly evils to flourish untouched and unrebuked.

Furthermore, Dewey was now a threat to the national

Democratic Party and its grip on the state that had the most electoral votes of all the states. President Roosevelt and all his forces, liberal, radical, and political, entered the war against him with grim determination to throw him back over the walls.

Dewey's former team-mate, La Guardia, was so devoted a New Dealer and so pro-Rooseveltian that now, instead of working with and for Dewey, he joined with the opposition, silently at first, then openly.

The American Labor Party, which had put Dewey's name on its ballot for District Attorney, met on October 3 and nominated Lehman with wild acclaim. The A.F. of L. and the C.I.O. both endorsed him, and the International Longshoreman's Association of the A.F. of L. with fifty thousand members, threw its support to him.

Thus deserted by many of his former supporters, Dewey had on his hands a fight, indeed. Roosevelt had carried the state two years before by 1,100,000 votes. No Republican Governor had been elected since 1920. Republican leaders, contributors, and members were so discouraged by what someone called 'Lehman's double-crossing of himself' that gloom pervaded the whole party. Lehman was invincible and the cause seemed utterly hopeless. But Dewey refused to admit this and worked with all his might, called conferences and organized the campaign.

Three months before the Republican Convention it had become clear to Dewey that he might be drafted for the governorship irrespective of the Hines case. In the event he was called to lead the campaign, he had felt it imperative that there should be deep and thorough research into state issues, and that the campaign should be confined to them. He had always based his public utterances on accumulated facts. He wanted research available on the issues which he would draw.

With the Democrats in control of all State departments and their files practically inaccessible to a Republican candidate, he had persuaded the Republican State Committee to appropriate 'the best fifteen thousand dollars they ever spent' in getting up a research bureau selected by



Dewey. He had explained that, of course, if he were not nominated, the information would be just as invaluable to whoever did run.

Then he had plunged into the Hines case. After his nomination, one of his first thoughts was to pick up the loose threads of the research bureau, outline the issues, and have further, more specific research made along those lines.

The major issues he selected and emphasized as most vital were six. Lehman never answered the first three of them; on the other three he accused Dewey of being 'misinformed and ignorant,' though in action after the election he tacitly confessed Dewey's accuracy.

#### THE SIX ISSUES

The six issues as Dewey saw them were:

1. The political corruption of Democratic machines in Albany, Buffalo, and New York City.
2. Lehman's poor record on civil service.
3. The breakdown of unemployment insurance.
4. The breakdown of public utility regulation.
5. Neglect of proper housing.
6. Chaos in the budget.

For his campaign manager he selected James O. Moore, a Buffalo lawyer, with Oswald D. Heck, Speaker of the State Assembly, as up-state manager, and Roger W. Straus as manager for New York City.

On the very day he formally opened his campaign, October 10, 1938, the Supreme Court of the United States not only upheld the constitutionality of the Dewey Law of joinder indictments, but refused the appeal and put the final quietus on the struggles for freedom of Lucky Luciano, Betillo, Wahrman, Pennochio, Frederico, and Liguori, whom Dewey had begun to investigate more than three years before.

This was hailed by the New York *Sun* as 'a signal victory, because Dewey has now been upheld all the way through to the nation's highest tribunal in his first major racketeering case as Special Prosecutor. Several important precedents have been established, among them the point that defendants

linked together in a common conspiracy can be tried jointly.'

As a preliminary to his opening campaign speech Dewey gave out a sort of *hors d'oeuvre* in a luncheon address to the New York Republican Women. His speech was broadcast and seventy-five groups of Republican women in various parts of the state heard his voice at the same time. Gloriously introduced by Miss Jane Todd, vice-chairman of the Republican State Committee, he praised women for their work in securing the right to serve on juries, and for their activity in political life. Yet, he said, a million men and a million women of the state had failed either to register or to vote at the last election. He urged his hearers to get that million women to the polls. He also announced that he would talk over the radio every Monday evening until election day.

Working day and night, setting up headquarters, selecting personnel, he nevertheless found time to invite and confer individually with county chairmen from every corner of the vast State of thirteen million people. He sought their views and listened carefully to their advice. Then he invited the women co-county chairmen to a dinner and spent an evening of conference and exchange of views with them. As the new leader of his party, he proposed to know the views of all its leaders and to weld the campaign to a unity of purpose.

With the next of his too few days (there were only six weeks between nomination and election day) he toiled on the drafting and redrafting of the first of his speeches.

## Chapter XXVII • THE CAMPAIGN

IN HIS first Monday evening radio talk, Dewey took up the national problem of unemployment insurance, and the State Unemployment Insurance Act, which had been in force since April, 1935. He praised the high promise of the act and then examined the performance. He told how employers had paid one per cent of their payrolls to the fund all during 1936 and two per cent during 1937, until \$86,000,000 had been collected from 95,000 employers to protect more than 5,000,000 workers. The administrative staff employed 3900 people.

On February 1, 1938, as 'a milestone in social justice,' the first benefits were paid in a spectacular scene performed by the Governor. A jobless pressman received a check for \$15 and a jobless woman shirtmaker received \$8.45 — both from the hands of Lehman in person. Photographs were taken and published, and the 613,000 men and women whose applications had been turned in waited their turn.

But Dewey had secured from all over the state affidavits supporting every instance he cited as he described 'the gigantic failure' and the tragic contrast between hope and experience.

'In every local office in the state, hundreds and often thousands of protests were received. Insurance checks did not arrive. . . . Before this, a worker could rely on relief or on WPA. Now he was ineligible for either except in extreme emergencies. Shunted from bureau to bureau, he became hopeless.'

With specific case after case Dewey piled up the story of confusion. More than 122,000 claims were unpaid. After \$73,500,000 had been boastfully distributed, there were still

20,000 cases in arrears and 48,000 in dispute — even though the applications were cut in two.

‘Unemployment insurance,’ Dewey said, ‘has become a sound and necessary part of social service and of the self-confidence of our people. With financially sound operation and efficiency of administration it can be made a broader base for human security and happiness. Badly administered it is an obstacle to social progress and a deception of the people.’

Dewey’s speech made a deep impression throughout the state. The Republican Party began to shake off some of its apathy. They realized that it was going to be a fighting campaign.

On October 17, in his second Monday radio talk the nominee took up the bad record of the administration in the matter of low-cost housing:

‘Tonight let us recall the story of Elizabeth Horan and her brother Joe, who lived in four tiny, airless rooms on the fourth floor of an old tenement house near New York City’s Harlem, for which they had to pay more than they could afford, since there aren’t enough good homes to go ‘round.’

He described the awful death of the Horans when the tenement went up in flames.

‘They never had even a chance for their lives. They never had any other place to live because there wasn’t anything better to be had for twenty-five dollars a month. Joe and Elizabeth Horan, who died in a fire trap this year, were not the only people who have paid with their lives for neglect by the state. Fire after fire has occurred in tenements of our state and, worse than that, more fires are going to occur and more people are going to die. . . .

‘There are other phases of this same picture even more tragic. Day by day through the courts, through the clinics, into the hospitals and into the prisons of the city and state pour these less dramatic thousands who are evidence of a greater deadliness, those who have not been strong enough in body or spirit to resist the unwholesome conditions under which they have been forced to live. . . . In New York City alone there are nearly two million people living in fifty-nine

thousand outmoded, decrepit buildings which were unwholesome the day they were put up.

'Death by fire is in reality the least of the threats under which almost a third of the population of New York City must live. In such houses the tuberculosis death rate has been 129 per cent higher than elsewhere in the city. Death from spinal meningitis has been 119 per cent higher than in the rest of the city. The general death rate is 93 per cent higher.

'When a man is District Attorney he sees these things himself, at first hand. In the courtroom he sees literally thousands of men and women who will find in prison more decent, healthy living quarters than they ever knew in their own homes. The futility of the patchwork methods of the past becomes overwhelmingly clear to those who live with this problem. The urgent demand is for action.'

Then he turned his eyes on Lehman, who had in his acceptance speech acclaimed his own record for low-cost housing and slum clearance. Dewey said: 'His record is one of the passage of time, not of achievement. This state administration has been in office six years. What has it done? . . . Nothing in 1935. Nothing in 1936. In 1937, Assemblyman Moffat proposed a bond issue for housing so that the State of New York could actually start construction. Opposed by the Governor, this project was killed both in 1937 and again in 1938. Sponsored by the Governor was a constitutional amendment which cannot even become law before the year 1940. Certainly no houses could be finished under it until 1942 — ten years after the present state administration came into office.

'But before 1942 many a Joe Horan, many an Elizabeth Horan, many a child will die in tenement-house fires. Many will die of tuberculosis or will be otherwise infected by the environment in which they are forced to live. . . . After six long years of the present administration the State of New York has not contributed to the construction of a single low-rent dwelling.'

He told of what the Federal Government had done. 'While Albany slept, Washington acted.' Yet it only meant an increase in centralized bureaucracy; and it meant that New

York taxpayers would send \$176,000,000 to Washington for housing and 'be lucky to get back sixty millions of it for use in the State.'

He saw one hope of improvement. The Constitutional Convention, largely controlled by Republicans, had proposed a housing amendment written by Senator Bontecou, candidate for Lieutenant-Governor. If this were passed at the November election, 'three hundred million dollars would be put to work in New York State for low-cost housing on a sound financial basis. . . . The greatest debt owed by the state to its people is at last about to be paid. The dividends in good citizenship, good health, sound moral fiber, and in the strength of future generations will be enormous.'

#### HARRY HOPKINS'S GIBE

While he was making this speech, Governor Lehman was the house-guest of President Roosevelt at Hyde Park. They had split over Roosevelt's attack on the Supreme Court, but they patched up their quarrel in the face of the danger of Dewey. The Administration was bringing all its big guns to bear on him. Another Hyde Park guest, Harry Hopkins, gave an interview there claiming a Democratic victory in New York, and adding: 'And that means that Sir Galahad will stay home.'

The national interest in the campaign was shown by the comment of a Detroit *Free Press* editorial on Hopkins's gibe:

In all the history of corrupt machine politics in America there has probably never been uttered a more callous and cynical comment than that of Harry Hopkins. It is comparable to Boss Tweed's boasting question, 'What are you going to do about it?'

That the American people are at heart opposed to graft and corruption is well attested by the manner in which Thomas Dewey caught the public imagination by his crusades against the racketeers in New York. He made life safe for workingmen against union exploiters, he freed small merchants from the terrors of extortion, he cleaned the foul political stable of Tammany Hall.

A huge throng of city folk and farmers gathered in Rochester on October 19 to hear a stirring oration beginning like a reveille:

'Fellow Republicans: Once more the drums of victory are beating along the Mohawk. The Republican Party stands ready to reassert its leadership in the State of New York. The Party has chosen me to lead the battle. No man with humility could have sought such honor; no man with courage could refuse it.'

Though the election ought to be decided on state issues, the people were entitled, he said, to know his views on the major problems of the day as propounded and met by the Roosevelt Administration.

'We must fight to uphold every sound measure passed or offered for the relief of human distress, the advancement of the cause of labor, the promotion of economic security.... But the Federal Administration has too often fumbled near the goal. It has callously wasted public funds for political purposes. The spirit of hostility and quarreling toward business has kept millions of workers out of jobs. ... Something is wrong in this country when, after six years, there are still eleven million willing workers who cannot find jobs; when eleven million people and their families are dependent upon politicians for their daily bread. ...

'Jobs are made by the investment of money in new factories, new machinery, new housing, new ideas. That growth is the thing that has stopped. ... Idle money makes idle men. But threats won't bring it out of hiding. Abuse won't put it to work. No business man knows today what the rules of business will be tomorrow. Who, I ask you, is going to risk a new venture? Who is going to invest his money and create jobs if he fears that the next day he will be abused for doing it? ...

'In this election I do not seek the support of the reactionary on the right or the radical on the left. ... The natural course of our institutions is down the middle of the road. And the road of a free people lies straight ahead.'

He returned to the state and its inveterate corruption. 'Betrayal of public trust by the Democratic organizations

has become a fixed habit. It is a frame of mind. It is a way of life. These ever-recurring scandals are the results of causes deep-rooted within the Democratic machines of this state.'

#### A ROLL CALL OF EMINENT FIGURES!

In the very hall where he spoke the Democrats had met to nominate their ticket.

'That was a strange assortment of human beings.' This naturally made the multitude of Republicans laugh. 'High-minded and honorable men and women were here. But also here were ——'

He began to call a roll of eminent figures: 'Were they here to promote the cause of good government?'

As he characterized each, there was an explosion of bitter laughter and scorn in mounting thunders.

'Al Marinelli, the political ally of thieves, pickpockets, dope peddlers, and big-shot racketeers. Imagine his grin as he voted for the law-enforcement plank!

'Ed Flynn, boss of the Bronx machine and unofficial boss of the State Civil Service Commission. Imagine his grin as he voted for the Civil Service plank!

'Charlie Schneider, who, at a time when he was Assistant Attorney General of this state, helped turn loose the man who had murdered a labor leader. Imagine his grin as he voted for the labor plank!

'The Albany machine, with Politics for Profit at its mast-head. Imagine their grins as they voted for the Social Welfare plank!

'The Brooklyn machine, with its proud boast of "Justice for sale in everything from murder cases down." Don't you wish you could have seen them when they voted for the plank on sound finance?

'The worst political organizations in America pretending to represent the people of New York in the cause of good government — in meeting the hopes and aspirations of the people of our state!'

Dewey was revealing new powers to stir vast public juries as he had won over the juries of twelve one after another.



The Rochester speech fired the Republican Party with new enthusiasm, and the campaign picked up momentum. From all over the country came requests for copies of that speech.

From Rochester Dewey went to Utica and on his way there passed the Revolutionary battlefield of Oriskany, where old Colonel Herkimer and his men had 'fought to found our free government.' Utica was certainly not pent up when it poured out to welcome Dewey. The crowd was the largest ever gathered in its whole history. His theme this night was Monopoly, 'an old issue in American politics. . . . Monopolies were supposed to have been abolished in this country a generation ago, but we still have them. . . . We have the beginnings of a serious monopoly in the national political scene. The branches of that monopoly are like chain stores that owe their living to the continuance of that monopoly nationally. . . . The individuality of the states is threatened. . . . One of our greatest newspapers has repeatedly said this very year that the governorship of New York is now a mere bookkeeping job. . . . The Governor should be more than a branch manager in a chain-store system of national politics.

'Who runs the Democratic Party? Is it my opponent? If it were, why isn't he running for the United States Senate where he said he wanted to go?'

Governor Lehman was incensed by Dewey's quotation of the *Daily News* and its reference to his office as a mere book-keeping job. In his next speech he retorted: 'I hate to think what would happen to the state if its Governor belittled the importance of sound finance.'

In Suffolk County Dewey answered this answer. But first, with his usual opening reference to local affairs, he denounced the activities of a German Bund in a county where it was very active and had been practicing the goosestep until the public prosecutor stepped in. Then he took up the Governor's allusion to the importance of sound finance and bookkeeping:

'During my eight years as a public prosecutor, I have found many things in books of account. The indictment of Dutch Schultz, the convictions of Waxey Gordon and the restaurant racketeers, and Tootsie Herbert, and many others,

have been based on the work of skilled accountants who worked with me.... Let us look at some facts about the books of the State of New York. The Governor's greatest boast in this campaign is that he has balanced the state budget... that last July 1 the state had a surplus of \$6,500,000.

In an analysis too technical to quote here, he pointed out that the alleged balancing was indeed 'a nice bookkeeping job — taking credit for receipts that didn't come in! Advancing tax dates to get them in a fiscal year! Delaying payments to put them in the next fiscal year!... If we eliminate the bookkeeping transactions, the \$97,000,000 deficit of the state has been reduced by only \$18,500,000. In that same period, the net funded debt of the state has increased by \$197,000,000. Fifty-seven per cent increase in state debt! Only a fraction of the deficit actually removed!'

In the third of his Monday night broadcasts he repeated a sensational maneuver he used in his campaign for the district attorneyship. As he had suddenly hurled a bomb at Marinelli on Sunday, October 24, 1937, so now on October 24, 1938, he exploded a mine under the rulers of Albany, the capital of the state, the home of an unbroken line of Democratic governors for sixteen years.

'Tonight we examine a political racket, a political monopoly. We rip the lid off the vicious mess of corruption which exists within the very shadows of the capitol of this state.'

As usual, before making a charge against anyone, Dewey made careful investigation and backed his accusations with names, dates, affidavits.

The rulers of Albany were three brothers. Dewey talked about them in a state-wide broadcast from New York.

'Three brothers are the bosses of Albany County. They have been running it for the last sixteen years, building a great political monopoly to buttress the power of the Democratic Party in the State of New York. Their system of politics for profit has become one of the worst in America. They could have taught tricks to Tammany Hall in its heyday.'

He gave minutely the shabby records of the O'Connell

brothers, which included convictions of one of them for contempt of court and for conspiracy in the operation of a crooked four-million-dollar baseball pool. He told of their creation of a beer monopoly which they maintained by outrageous oppression of other brewers and of all tavern-keepers who sold other beer than theirs.

Then Dewey gave a list of Democratic committee members whose records were hardly better than the records of Marinelli's henchmen. He put it squarely up to Lehman:

'No wonder my opponent is sick of being Governor of the State of New York. . . . He wanted to go to the United States Senate to get away from it all. But they wouldn't let him.

'At the Rochester Convention they induced the Governor to run again for an office he did not want. The newspapers report that the Democratic National Chairman told a touching story about a politician who sat on a bed in a hotel room in Rochester. He was begging the Governor to run again — to make the sacrifice. That politician was the twice-convicted Dan O'Connell.'

The same night Governor Lehman in Albany and under the sponsorship of the O'Connells denied the charges in Dewey's speech about his budget-balancing. He accused Dewey of slanderous falsehood, vilification, and ignorance. But he did not mention the O'Connells.

Dewey's mention of them threw Albany into a frenzy. Apparently nearly everybody there was tuned in to his radio voice. When he announced that he would follow his long-distance attack by an assault in person the following night there was hysterical excitement. He was warned that if he dared appear in Albany he would be served with a summons for criminal libel, thrown into a cell and kept there until the campaign was over. He was warned that if he reached the platform a battalion of rotten-egg throwers would drive him out of the building.

Even if he had not planned to go, he would have had to go now. He quietly proceeded with the preparation of his speech and took the train for Albany. But the authorities had come to realize that any insult to a candidate would do more harm to Albany than to him, and if the O'Connells had the police

influence alleged, they used it to protect Dewey. A double line of policemen guarded him from the train to his car, another from his car to the hall.

**'BUT HIS POLITICAL ADVISERS COULD HAVE TOLD HIM'**

The largest crowd that ever greeted a Republican speaker in the history of Albany packed the hall and filled the adjoining streets. Dewey's voice was carried, not only on loud-speakers, but on the radio. His original radio time had been extended from a quarter to a half-hour, but he overran his time by seventeen minutes, chiefly because of the incessant and prolonged tumult raised after every blow he dealt the O'Connells in their own stronghold.

He opened his speech by repeating his exposure of the brewery racket and giving instances of 'brazen misuse of power' by way of a taxation racket. 'Tax oppression,' he said, 'is one of the most vicious methods of destroying human liberty. It is one of the worst weapons of political monopoly.'

He named the three large breweries in Albany, one of them owned by the O'Connells. He cited the assessment figures, showing that the two competing breweries had been assessed at nearly double the O'Connell assessment. Later, when the O'Connell assessment was cut exactly in half, the other two were left where they were. But the taxation racket had not stopped at breweries.

With his zeal for documentation, he held up photographs of homes in Albany, and giving names and addresses showed that the handsome dwellings of Democrats were assessed at half the value of the simplest Republican dwellings.

Dewey made extraordinarily effective use of the echo effect in flinging back at Lehman a comment he had made. Lehman, accusing Dewey of utter ignorance and misinformation, had used as his refrain:

'I am sure Mr. Dewey doesn't know these things. But his political advisers could have told him.'

As Marc Antony in his funeral oration over Caesar kept harping on the assassins as 'honorable men, all, all honorable

men,' so Dewey throughout this speech made a refrain of Lehman's words: 'I am sure the Governor doesn't know these things. But his political advisers could have told him.'

The crowd soon caught the infection of its repetition and gradually began to take it up as a sort of theme song, reiterating it with uproarious ridicule.

Reviewing a previous charge that 'the registration in Albany had never quite exceeded the adult population, although it frequently approached it,' Dewey described how that statement had roused the fury of the machine forces, and brought denunciations of him by the front-men 'from the Mayor down.'

Then he held up before the audience the 1938 city directory and showed that it listed 95,269 men and women over twenty-one years of age. Of those, 2000 had died before the book came out; 14,000 lived in suburban towns and were ineligible to vote in the city, leaving a total of 79,000. Yet —

'This year they have registered 82,000 voters! Three thousand more than the total of men and women in Albany including the sick, the infirm, and the non-citizens. The Tammany braves are pikers by comparison with this machine when it comes to vote frauds.'

He gave devastating biographies of quaint figures in the Albany machine. He told of the vain efforts of the independent citizens to overthrow it. He told instances of the persecution of Republican voters, including one young woman clerk.

'I don't believe the Governor knows about these things. But his political advisers could have told him.' The crowd bellowed it in titanic antiphony.

Dewey gave further details of the calling of the grand jury to investigate election frauds, and the packing of it with machine supporters.

'I don't know whether the Governor of the State knows these conditions. But his political advisers could have told him.'

With ingenious rhetorical repetition he thundered on:

'It has never been within my power to do anything to

rescue the people of Albany from the corrupt grasp of the O'Connell machine. Can the Governor say as much?

'I have never had a petition from outraged citizens of Albany to enforce the election law in this city against the O'Connell thugs. Can the Governor say as much?'

The audience caught up the new phrases and chanted 'No!'

'I have never received votes from the corruption of the ballot by the O'Connell machine. Can the Governor say as much?'

'I have never used and I shall never permit the use of my appointive power to put henchmen of the O'Connells into public office and strengthen their grasp on the city of Albany. Can the Governor say as much?'

The multitude howled: 'No!'

He reminded his hearers that New York had loosened the grip of Tammany and Albany could do as much. When he finished, it was evident that Albany was Dewey's unless the local machine did something drastic.

The next night, in Mineola, he kept his promise to answer the Governor's charges that he had made maliciously false statements or had ignorantly failed to tell important truths about the state budget. He took the Governor's accusations item by item and quoted either from state records or from his own speech a refutation of every statement made against him by the Governor.

Then he reiterated his own charges and summed up the alleged balancing of the budget by pointing out that the state debt had reached the amount of \$541,000,000, the greatest in its history, and almost \$200,000,000 more than when Lehman took office. And yet the total taxes collected from the people had increased by seventy-seven per cent.

#### THE 'BED-AND-CHAIR' INCIDENT

He concluded his answer by a burlesque recantation:

'I have pointed out four major errors in the Governor's Monday night speech. Now I want to confess an important error that I made in my speech Monday night. You re-

member that I recounted how the twice-convicted Dan O'Connell, political boss of Albany, sat on a bed, urging the Governor to run again for an office he didn't want. Well, I was wrong about that. We have it on the word of Mr. Farley, the Chairman of the Democratic National Committee, that Dan O'Connell did not sit on a bed. He sat in a chair — a nice big easy-chair. Pardon me, ladies and gentlemen. I stand corrected. I said he was sitting on a bed. He was really sitting in an easy-chair.

'And that was the only answer we've had to the exposure of political corruption in the very shadow of the state capitol. There has been no explanation of the Albany machine, no repudiation of the Albany machine, no apology for the Albany machine.

'I'm sure the Governor didn't know the iniquities of that machine. But his political advisers could have told him.'

The 'bed and chair' incident has since taken its place among the humorous anecdotes of American politics. It was repeated everywhere, and experts were particularly amazed that so clever a politician as 'Jim' Farley should have 'pulled such a boner.' Dewey later described the incident: 'I threw a bed at Farley. He tossed back an easy-chair, but all he did was hit the Governor.'

His sweeping travels took him to Elmira next. Part of the journey carried him through New Jersey. At every stop the train made, hundreds, thousands were waiting to take a look at him. He acknowledged the welcome with bows and smiles from the platform, but being out of his own state, he felt it improper to respond to the incessant cries of 'Speech! Speech!'

His theme in Elmira was Civil Service and the Merit System, to which the Democratic Party had pledged its support in every platform. After paying a tribute to one of his political idols, Theodore Roosevelt, whose birthday it was and who had been United States Civil Service Commissioner in his early career, Dewey said that the state employed forty-six thousand persons, all of whom, according to the Constitution, must be picked on merit, with a small percentage of specific exceptions. In the National

Administration under Franklin D. Roosevelt, he said, the eighty-one per cent of federal employees under the Merit System when he took office had been reduced to sixty-three per cent, though the public payroll had been vastly multiplied. New York State was still worse: 'Less than fifty per cent of the regular employees are in the competitive Civil Service. More than half of all the state employees are subject to removal at the whim of a politician.'

He quoted Lehman's solemn promises to abide by and strengthen the Merit System. Yet his failure had moved the Civil Service Reform Association to say: 'The weakness of the Governor in yielding to political pressure is as disheartening as it is puzzling.'

Dewey hammered home names, dates, and figures about picturesque personalities. From civil service he turned to agriculture when he spoke at Binghamton 'in the midst of some of the richest farm country in the State.'

'Today,' he said, 'the net income of most of New York's great farming population does not pay the cost of the hired man.'

### 'BUT NOT THE FLOODS!'

He attacked Lehman for making a political issue out of the milk problem and scoffed at his claiming credit for all the farmers' benefits. 'By the time he got through talking, I am sure his listeners felt that he brought the sunshine to the fields and the rains from the heavens.'

'But not the floods!'

The lowering of prices received by the farmer, combined with higher labor and feed costs, had drastically reduced his net income. 'More dollars coming in, and still more dollars going out — worse off at the end of the year.'

He accused the Governor of letting the highways 'go to pot' and the investment of \$500,000,000 on highways waste away. He scored a palpable hit when he noted that the Democratic platform did not even mention the subject.

Dewey's chopping away at the Democratic hopes of winning New York State as usual brought such alarm to the



party that the Secretary of Agriculture Wallace tried to answer Dewey's farm speech by explaining that the reason why New York had recovered more slowly than the rest of the country was that it had not fallen so far! This oracular statement from the presidential Cabinet had no more success than Hopkins's sneer about young Galahad. It was reported in the papers that the President himself would take a blast at Dewey in his 'fireside chat' from Hyde Park.

But Dewey went on speeding up and down and across the state, finding his railroad trains greeted at unannounced stops by hundreds where he had not expected dozens. He was incessantly being dragged from his work on his next speech to the rear platform where a great pool of faces stared up at him. He would make a brief impromptu speech and dash back to his work while cheers rolled after his departing train.

On one trip the stops were so frequent that he could not concentrate on his work on two speeches for the night. At the first few stops he would say a few words and vanish, much to the disappointment of the crowd. So, at the remaining stops Lockwood and Heck filled the door with their two huge forms and kept him before the crowd till the train pulled out.

At White Plains all Westchester County seemed to be mustered. His texts here were Welfare and Unemployment. He told of his own experience in remodeling and repairing the dilapidated District Attorney's office building and of the WPA workers assigned to the task. He gave portraits of pathetic figures and the gigantic problem of caring for the helpless; and excoriated the Democratic failures.

'Last year,' he said, 'the Governor's budget failed to provide sufficient appropriations for relief. It was the Republican Assembly which forced an additional appropriation of twenty-four million dollars. I pledge you that the Republican Party will continue to see that these obligations are met.'

Next came red drama to relieve the economic gray. In another state-wide broadcast, he reviewed the famous Druksman murder case, which the Democratic District Attorney

in Brooklyn dropped. 'The three killers walked out on the street — free men.' Dewey went on to tell how the police eventually 'blasted the case out of its tomb.'

'So violent was the scandal that the Governor, for the second time in two years, was forced to appoint a Special Prosecutor to supersede that District Attorney. The Special Prosecutor went into action. He sent the three murderers away to prison for life. Eight men were indicted as fixers and ten others were named as co-conspirators. A whole system of corruption of justice was exposed.

'Then the special grand jury brought charges against the District Attorney for neglect of duty. It asked the Governor to remove him from office. The Governor held a hearing for fourteen days: then declared he believed the District Attorney to be an honest man and dismissed the charges.'

Dewey went on to expose further political scandals in the notorious Drukman case and the friendships of politicians with convicts. He gave ghastly proofs of crime's control of justice.

'Scandal still smells in that District Attorney's office. More than half a million dollars of the taxpayer's money has been spent to clean up the Drukman case alone. From Brooklyn the Democratic bosses claim their largest plurality. No Governor relying for support on such machines can bring their power to an end. Only the people can bring that power to an end.'

In Buffalo, in an enormous auditorium, an overflowing audience gave him a rally of unequaled enthusiasm. He took up Lehman's boast of his prompt and fearless actions against corruption in Buffalo with devastating charges of incredible delay and neglect. Equally scathing was his assault on the Democratic claim to be the friend of labor. He pointed out how all the criminal rackets had prospered under Democratic indifference or co-operation; how those rackets had turned certain labor unions over to tyrants and thieves who used them for their own profit. He told how he had broken the power of those racketeers and restored the labor unions to freedom and wholesome growth.

After the meeting a group of labor leaders called on him in

his hotel room and conferred with him on labor's needs. One of them said: 'We expected to ask you a lot of questions, Mr. Dewey, but you answered them all in your speech tonight.'

The next night in the Bronx he gave his views on water power and public utilities in a speech showing deep research into those subjects. He made drastic criticism of Democratic neglect of opportunities to reduce utility rates and a statement of his own forward-looking policies.

The campaign raged on with more than the wonted intensity. While the verdict of the numberless straw polls forecast a camera finish, each party published results that indicated disaster for the other.

But the main astonishment everywhere was that Dewey had a chance, and was turning what was thought to be a hopeless lost cause into a fighting chance.

Lehman explained why he was 'running again,' and asked why Dewey was 'running away' from his 'duty.'

That he was not neglecting it he showed when the kidnapers and killers of the long-missing Arthur Fried, a White Plains contractor, were turned over to Dewey's office by G-men for trial on kidnapping, punishable by death. His staff pushed the preparation with all possible speed.

#### HOLDING BACK THE HARNETT INDICTMENT

But he suppressed one evidence of his energy. He had all ready an indictment against Governor Lehman's Commissioner of Motor Vehicles, Charles A. Harnett, for accepting huge bribes. The grand jury had voted the indictment and advisers told him that its publication would insure his election and the defeat of Lehman who had appointed Harnett. But Dewey absolutely refused to file it during the campaign. He said he would rather lose the race than subject the work of his office to the suspicion of being used for political effect.

During the campaign there were the usual personal touches. Governor Lehman was pictured with his happy family. Dewey with his. Dewey's mother came on from Owosso to be with him. She could not endure it to stay away.

He was frantically busy when she arrived. She gave him a kiss and said: 'Run along. I'll hear you on the radio.'

The intensity of the campaign on both sides developed whispering campaigns based on racial and religious prejudice. Dewey was outraged when he heard of the appeals to intolerance. On the back of an envelope he had in his pocket, he wrote out a statement that was as forthright as it was unique in American politics. Never has a candidate for high public office made such a remarkable utterance during the heat of a campaign. After scribbling it down, he went to the press room at his headquarters and read it to the reporters:

Whispers concerning racial and religious preferences have been injected into this campaign on both sides. The man or woman who votes for a candidate because of his race or religion or votes against him for such a reason is a disgrace to American citizenship. I condemn and despise any support based on racial or religious prejudice.

There are some things more important than being elected Governor, and one is a spirit of religious and racial good-will. I would rather go down to defeat than be elected by votes based on race or religion.

At the Manhattan Opera House in New York City before an overflowing audience, on Thursday, November 3, he was moved to review his own 'social philosophy' as he had attained it in his eight years' encounter with public problems. With unusual fervor he proclaimed his belief in the supreme rights of the individual.

'There are problems to which there is no immediate answer. Their solution must be gradual, an orderly process, based on social and economic human need and divorced from all partisan consideration. . . . I put the rights of the individual ahead of the duties of government. Man lived on this planet first and government grew after his arrival. It grew in response to his need. The duty of government to respond to man's need continues and shall always continue.

'Sometimes government forgets how it came into being. Sometimes governments — or rather the small group of men in control for the moment — fail in their duty. When any small group of men selfishly use their power toward self-

perpetuation, then the integrity of government is at stake. Freedom itself is threatened. That is bad government.

'Sometimes a government, with the best intention in the world, fails in its duty through clumsy administration. The need of man, which it represents, is not satisfied. The rights of man are not preserved. That, too, is bad government.

'Under the broad heading of the right to freedom are many rights. Economic security, security from disaster for which no individual is responsible, has become a right of the people. It includes the right to a job at fair wages. It includes the right of a farmer to decent prices for his crops. It includes the right of labor to bargain collectively through representatives of its own choosing. It includes the right of the small business man to protection against unfair competition. It includes the right of the very young and the old, the sick and the infirm, to shelter from the winds of chance to which their youth or age or infirmity may expose them. Many of these rights are still denied to our people. For many of these we still must fight.'

He upheld freedom in thought, speech, press, public assembly, religion, and 'freedom of expression in government itself.'

Later in the address he made a light reference to the attention he was receiving from the National Administration. Two members of the Cabinet, Hopkins and Wallace, had taken flings at him. Another, Postmaster General Farley, who neglected all other campaigns in other States and stayed in New York to direct things, had made speeches against him; or, as Dewey told it: 'Even the main office down in Washington seems to be scared. They sent up the general manager. Perhaps you would know him better as the Job-Master. The panic is contagious. Even the Job-Master has it.'

The President himself had been intervening in many Democratic primaries, conducting what were called 'purges' of those who had opposed him. All but one of his purgatives had failed to remove the clogging personality.

Dewey alluded to this in a few words: 'I rub my eyes with wonder. As I read the papers I ask myself whether we are

... Not one of the many issues before the people has been met by our opponents. Instead they bring a single indictment against me.

'I stand before you accused of one crime: I was born in the twentieth century. To that charge I plead guilty. I am of the twentieth century. We look forward, not backward. ... Another generation has passed on to us a sick world. It is sick economically with eleven million of our people still unemployed. It is sick spiritually, poisoned by hatreds. It is sick politically....

'It was well said by the President last night, and I quote his words: "By their promoters ye shall know them." In this campaign I am promoted by no man. No man or group of men told me what office I could not run for. No man or group of men on an easy-chair, on a bed, or otherwise, told me what office I could run for. "By their promoters ye shall know them."

'Our opponents still rely upon the discredited and repudiated forces of old and reactionary political power in Albany, Buffalo, and here in the City of New York....

'Night before last, speaking in the Bronx, my opponent, instead of answering the major issues, pointed to five Republican office-holders who had been guilty of wrongdoing. Five out of the thousands of Republican office-holders in the State.

'But were those five promoted? The answer is in the record. Each of the five office-holders who stole public funds was prosecuted and convicted by a Republican District Attorney and sent to prison. Each of those men betrayed a trust. He was never again allowed to hold public office. He was and is today no longer in the party councils.

'One other was mentioned by my opponent. He told a story about a former Republican sheriff in Cayuga County. I quote him:

"Believe it or not, Dutch Schultz was appointed a deputy sheriff in Cayuga County. This sheriff was a leading figure in the Republican organization of that county."

'Last night I added another chapter to that story. I pointed out that this appointment of Dutch Schultz was

discovered after the Cayuga sheriff was out of office and that the sheriff was then read out of the Republican Party. That sheriff will never again be in the Republican Party councils.

'But when my opponent gave his speech in the Bronx last Thursday, he didn't have to go as far away as Cayuga County. He could have talked about Bronx County. On July 31, 1925, Dutch Schultz was appointed a deputy sheriff of Bronx County. At that time he was in the rogues' gallery of the Police Department and was already an ex-convict. Let's look at his oath of office, now reposing in the records of the County Clerk of Bronx County.'

He held up before the audience a copy of the document, and said: 'Let's see who was sheriff of the Bronx in 1925. Who appointed the man who at that time was a trigger-man for Legs Diamond and Owney Madden, and was preparing to build up his own vast racket empire? Let's see the name at the bottom of this certificate — the name of the sheriff who made the appointment, administered the oath, and gave the badge of a law-enforcement officer to this notorious Dutch Schultz. Let's see the name. Here it is. Edward J. Flynn.'

The name of this powerful politician hit the astonished audience with earthquake effect. The crowd gasped with amazement, then broke into gales of derisive laughter and finally roared with cheers.

When the turmoil quieted, Dewey demanded: 'Now was this Ed Flynn thrown out of the councils of his party? No. He was promoted. Six months later he was appointed Chamberlain of the City of New York.'

He described appalling scandals that occurred during the Flynn régime, and went on: 'He is now the Secretary of State of the State of New York, at twelve thousand dollars a year by appointment of the Governor. He has custody of the Great Seal of the state. He administers the oath of office to the Governors of the state, to other State officers, and to members of the legislature. And he has been promoted in rank in his party. He is today the Democratic National Committeeman for the State of New York.'

The meeting broke up in a fury of enthusiasm for Dewey,

The campaign ended with his radio speech on November 7, the eve of election. He reviewed the failures and alliances of his opponents and promised what he would do if elected. He paid his respects to 'the personal honor of my opponent' and closed with a final fiery appeal to the voters.



## Chapter XXVIII • THE RESULT

It is one of the inescapable qualities of an election that both sides cannot win, both cannot lose. Yet in this election both Dewey and Lehman came near to doing both. Lehman won, but by so small a plurality that he gained more humiliation than glory. Dewey lost, but in his defeat captured the enthusiasm of the nation.

At 8.20 A.M. on the morning of November 8, 1938, Dewey and his wife were caught by the cameramen as they were entering a laundry at 1355 Madison Avenue to cast their secret ballots. Mrs. Lehman and her husband were also photographed voting.

All evening long the election returns poured in with the usual confusion. And since there were elections throughout the nation, their returns confounded the confusion.

Early in the evening the returns for Lehman and Dewey ran nip and tuck. The *Mirror* announced Dewey's election in one edition. But two hours later a solid block of votes came in from Brooklyn. All the rest of New York City had been reported by nine o'clock, but three assembly districts in Brooklyn were strangely delayed till midnight. They spelled defeat, and it was charged that they were held back for a purpose. But Dewey never asked for investigation or recount.

Just an hour after midnight, Dewey summoned the reporters to his room at headquarters. They found him eating a chicken sandwich. His wife was at his side.

Though the Democrats were still uncertain of the result, Dewey announced that he had wired Lehman: 'Heartiest congratulations on your re-election. I wish you every success and happiness. With best personal regards.'

Then he went to a microphone and broadcast his message to the public: 'If in this election we have made any contribution toward elucidating the issues confronting the people of New York State I am happy indeed. It has been a great fight and I am happy to have led it. I want to express my gratitude to the thousands of workers who have aided in the campaign. To the more than 2,250,000 voters who voted for me I want to tell them that I am grateful for their support and confidence.'

On his way out of headquarters, Dewey remarked: 'I am going home to get my first full night's rest in five months. Tomorrow I will continue my work in Center Street.'

Governor Lehman acknowledged Dewey's telegram and gave out a statement: 'My opponent Mr. Dewey can rejoice in having waged a vigorous and strong fight. To him I extend the assurance of my whole-hearted support in the exacting task that lies before him as the District Attorney of New York.'

The night after election, Dewey and his mother and his wife went to the theater to see the opening of the comedy, 'Leave It to Me.' In the lobby they met Governor and Mrs. Lehman, and the men were photographed shaking hands warmly with cordial smiles while their wives beamed upon each other.

There are curious and significant features about that election. The official final figures published a month later showed that out of a grand total of 4,821,631 votes, Lehman polled 1,971,307 Democratic votes, 419,979 American Labor Party votes. Dewey polled 2,302,505 Republican votes, and 24,387 Independent Progressive Party votes.

The total number of Republican votes cast for Dewey exceeded the Democratic total for Lehman by 331,198, so that Dewey's vote put the Republican emblem back in the first place on the ballot for the first time in sixteen years.

Lehman's plurality was only 64,394 votes, though the Democratic candidate for Lieutenant-Governor, Charles Poletti, had a plurality of 229,361 and Senator Robert F. Wagner a plurality of 438,414.

Official registration figures, which were made public the

following March, showed a Democratic enrollment of 2,442,142, a Republican enrollment of 1,930,858, an A.L.P. enrollment of 222,058. Democratic registration exceeded Republican by 511,284. Democratic and A.L.P. together exceeded Republican registration by 733,342. Yet Dewey lost by only 64,000 votes, which means that he received 669,000 votes more than his party registration indicated. His personal popularity and vote-getting ability must have attracted the ballots of a tremendous number of Democrats.

#### ANALYZING THE VOTE

Though the Democrats elected their Governor, Lieutenant-Governor and United States Senator, Dewey had elected a Republican Senate for the first time in six years, and a Republican Assembly; and Governor Lehman now faced a hostile legislature. The American Labor Party, which had achieved a commanding position with a balance of power, lost all of its assemblymen, and failed to defeat the Democratic candidates for Attorney General and Comptroller, whose labor records it assailed. Yet it polled 419,979 votes for Lehman and saved him from defeat.

New York City is always against a Republican. His election is always a question of how large a majority he brings down from the rest of the state to meet the Democratic majority rolled up in the city. Dewey received a plurality outside New York City of 616,975. Though this was offset by Lehman's plurality of 681,369 in the metropolis, it was two and a half times as great as any Republican had received in a non-presidential election in the history of the state.

Thus, though New York City defeated Dewey, he polled the biggest vote ever gained there by a Republican candidate for Governor in a non-presidential year. This in spite of La Guardia's defection, all that Tammany could do, and the vote of the American Labor Party.

Dewey ran far ahead of his ticket and Lehman far behind his. Yet Lehman was probably the only candidate who could have defeated Dewey.

Dewey carried fifty-six of the fifty-seven counties outside

the five counties in Greater New York. The only up-state county he lost was Albany, where the O'Connell machine, functioning with greater zeal, rewarded Lehman with about 20,000 of his 64,000 plurality. Although it was proved that wholesale frauds occurred there, again Dewey declined to ask a recount. He carried President Roosevelt's own county, district, and town; also Lehman's election district, also Farley's. Practically every up-state county gave him the biggest plurality in history; and this in spite of a blizzard in the western part of the state, and rain in many other sections, which cut down the rural vote.

The Communist Party omitted to nominate a candidate for Governor. Its leaders supported Lehman and the party gave him its entire vote of about 100,000. Without that he would have lost by 36,000. There was good excuse for saying that Dewey was beaten by the radicals.

In spite of his defeat, Dewey was immediately hailed as the new hope of the Republican Party. He had won more votes than Hoover gained in his great presidential sweep of 1928 and had brought down to the city line a plurality that exceeded Hoover's by 60,000.

George A. Sheridan wrote in the *Tottenville, New York, Transcript* for November 11, 1938:

Governor Lehman's plurality is 64,000. Thanks to the prestige of Mr. Dewey's great public service in another field, the freshness and vigor of his campaign, the high promise of his liberal outlook, the Republican Party in this state has shown a way to lift itself out of decrepitude and defeatism and take on a new lease of life.

That way is the Dewey way of appealing to the progressive youth of the party instead of deferring to the moss-grown policies and prejudices of the reactionary Old Guard. And it wins votes.

The whole country was watching him, and from the opposite coast the *Los Angeles Times* of November 13 said in an editorial:

A shift of thirty thousand votes out of nearly five million cast would have made Dewey Governor against the combined efforts of the country's most powerful city, state, and federal

machine; plus the utmost influence of the President in behalf of an incumbent candidate as nearly invincible as candidates get.

Three days after the election, Dewey and the Democratic leader, former Governor Alfred E. Smith, appeared together on a radio protest against Nazi atrocities following an outburst of persecution. Dewey's was the first American voice to speak against them publicly. He appealed to the world 'to halt the savagery and barbarism which inspire the bloody pogroms.' 'If you saw a gang of cowardly ruffians set upon a helpless man and beat him, you wouldn't long remain silent. . . .' He pointed out that it was not only against the Jews that 'the Nazi madness has been organized. Catholics, Protestants, laboring men and women, and all lovers of freedom and good will of all faiths have felt the terror of Nazi oppression. . . . We recognize the futility of appealing to the leaders of the country where such outbursts are permitted, but in the name of humanity we appeal to the verdict of the world. . . . lest such barbarism spread through the world and cause the utter destruction of civilization. . . .'

As soon as he could clear his desk and confer with his assistants on the agenda for the District Attorney's office, Dewey once more sought a little rest in Bermuda. He and his wife sailed on the *Queen of Bermuda*. His Executive Assistant Paul Lockwood went along. They were gone for three weeks, returning December 13. The reporters found Dewey 'grinning, tanned, healthy-looking, and ten pounds heavier.'

He had been in daily communication with his office. And immediately things began to happen there.

## Chapter XXIX • A GRIDIRON DINNER

American politics never presented a more astonishing example of self-denying courtesy than Dewey's suppression, during his campaign for Governor, of an indictment already returned against the State Commissioner for Motor Vehicles. The disclosure would have fitted snugly into his issue of Democratic machine politics. . . .

Self-respect, which maintains one's intellectual integrity at all costs, is scarce in public or private life; and that is not the first demonstration of it by Mr. Dewey. . . . He has given an exhibition of vigor, moral courage, and magnanimity almost unparalleled. He would have beaten anybody but Governor Lehman, and he lost more votes than any other way by the popular inclination to retain him as prosecutor.

The cynical axiom that 'all is fair in love and war' applies to politics except in the rare cases of candidates whose qualities of character and capacity make them more formidable figures in defeat than they would have been in victory won by the ordinary devices of opportunists.

THESE words, taken from an editorial in the Louisville, Kentucky, *Courier-Journal*, a Democratic paper, were inspired by the fact that, a week after his defeat, Dewey published an indictment he had kept on ice lest he embarrass his opponent and give a look of partisanship to his own work.

He now arrested Charles A. Harnett, State Commissioner of Motor Vehicles, whose books his staff had been studying for many months. Harnett was accused of extortion and the acceptance of bribes for special favors to a corporation controlling the Parmelee and other cab companies, for

which favors he took a salary of a thousand dollars a month and additional tips amounting to about eighteen thousand dollars a year. The total amount was sixty-seven thousand dollars. Harnett pleaded not guilty and was held in five thousand dollars bail. He resigned his office.

Many editors commented on Dewey's good sportsmanship and decency in holding back this scandal. When it was finally published, it came like a thunderbolt, confirming his bitterest charges against the dishonest politicians hidden behind the honesty of the Governor.

His office, simultaneously with the offices of the United States Attorney General and the State Attorney General, now began investigating the fabulous swindles of 'F. Donald Coster,' which were to startle the nation by their grandeur and impudence. Sewell Tyng was in charge of this investigation.

Shortly after the exposure, Coster shot himself at his home in Connecticut. But, like Dutch Schultz, he continued to live on in exhumation. Like Dutch Schultz, who was really Arthur Flegenheimer, F. Donald Coster turned out to be somebody quite else working under an alias. His real name was Musica.

For a hundred and four years the Saint Nicholas Society had been holding an annual dinner, and it had latterly been awarding each year a medal of merit to the citizen who had contributed most to the city for the year. It was unanimously recognized that the medal for 1938 had been earned by Dewey, of whom the president, Gordon King Bell, said: 'He has been doing more work, more efficient, honest, and, I might say, consecrated work to keep New York free from crime than has been done for many years.'

But at the time of the award, Dewey was in Bermuda, and it was agreed to have a festival supper in April, and present the medal to him then.

A strange thing happened to Dewey now. He had gone to Bermuda for rest and recuperation from his extraordinary expenditure of strength and nerve in the campaign. He was completely convinced that his defeat had ended his chances for high office. The blue sky and the blue sea not only

soothed his hurt pride, but filled him with genuine consolation by the beauties of peace, with nothing more exciting than golf and tennis. He planned to return to private practice as soon as his term was over as District Attorney. He could then provide some luxury for his family of four, and take an occasional holiday.

Thoroughly reconciled to a life of obscurity with the prospect of a comfortable income in the offing, he came back to New York and was thunderstruck to find that he was being boomed everywhere for the Presidency.

*Fortune* magazine confronted him with one of the earliest of the straw-vote polls. Like Abou Ben Adhem's, Dewey's name 'led all the rest,' though only modestly at that time. He had 12.2 per cent of the total Republican vote distributed among a long array. He was the first or second choice of virtually all economic groups. Soon after, the Gallup poll gave Dewey 47 per cent, the rest of the vote being divided among half a dozen aspirants.

In December the Associated Press announced that its editorial experts had chosen as 'the most significant news developments of the year' a chain of events in many of which Dewey was a central figure: first, 'The trial of Tammany top-flight Hines on charges of selling political protection to the underworld'; second, 'the bitterly fought gubernatorial campaign from which Governor Lehman emerged a fourth-time winner'; third, the sentencing of 'society stockbroker Richard Whitney'; ninth, the arrest of J. Richard (Dixie) Davis, 'heir to the Dutch Schultz policy racket.'

The newspapermen paid him still another tribute. At the Gridiron Dinner in Washington in 1937, Dewey had been a guest and distinguished as a subject of satire. This year he was present as a guest of honor and a principal orator. President Roosevelt merely acknowledged a toast. His spokesman was Postmaster Farley. For more than fifty years the Gridiron custom had been to have the President as principal speaker and to choose as the other guest of honor the most conspicuous leader of the opposition. The Republican Party had elected a swarm of statesmen. But the committee chose the one who had conspicuously lost.



Dewey was felt to be the most interesting figure before the public.

A defeated candidate might have been expected to be either doleful or defensive, but though Gridiron speeches are 'off the record' and cannot be quoted here, Dewey's brief speech was evidently so right in its mingling of humor with deep feeling that Jesse S. Cottrell wrote:

Never did a guest of the distinguished newspapermen who compose the Gridiron Club receive a greater ovation than did Mr. Dewey. His address sparkled with wit and humor and he made a profound impression. The thousand newsmen and guests at once realized why Mr. Dewey made such a phenomenal showing in the New York election. It was his good humor, his sincerity of purpose, and his high concept of public service. Even President Roosevelt applauded Mr. Dewey as he concluded.

While he was in Washington, Dewey's rooms at the Mayflower Hotel, according to the press, became 'the Mecca of Republicans.' At noon he and National Committeeman Simpson were the luncheon guests of the Republican National Committeeman, John D. M. Hamilton.

A month later, a nation-wide plan was revealed to raise a fund of \$480,000 to nominate and elect Dewey as the next President. There were to be one thousand trustees, each contributing ten dollars; but as soon as Dewey heard of it, he demanded the instant cessation of the enterprise, and forbade the use of his name.

#### THE POWER TO ATTRACT VOTES

The first political speech he made after his campaign was on December 18, when, at a regular meeting of the New York County Republican Committee, in seconding a nomination, he said: 'The fight for decent, clean government has just begun. Whether our opponents like it or not the Republican Party is the first party in the state today.... Three hundred thousand more persons voted Republican than Democrat in the year 1938.'

The credit for this was generally granted to Dewey. His

vote-pulling power stirred William R. Clark to say in the Newark, New Jersey, *News*:

Some of New Jersey's ranking Republicans have been doing their 1940 shopping early. And they have nothing up their sleeve except a couple of hidden aces, both of which turn out to be Thomas E. Dewey. So, a year or so hence, do not be surprised if the party suddenly and spontaneously discovers Mr. Dewey's availability and presents him with thirty-two votes from New Jersey when the national convention opens. The reason these gentlemen are for Mr. Dewey is Mr. Dewey.

The New Year of 1939 opened with a handsome compliment showing how far Dewey's influence for the redemption of decency was spreading. All across the nation, in communities where there was political corruption — which meant every community in the nation — the watchword was, 'Give us a Dewey of our own.'

On January 1, the brilliant and vigorous Governor of Missouri, Lloyd G. Stark, wrote an open letter to the Attorney General of the State calling for a clean-up of the Tom Pendergast rule in Kansas City and next a cleansing of Saint Louis. He added: 'I wish to assure you that it is not an impossible task, for it has been successfully performed in New York City and has met the approval of the entire nation.'

Only now the newly appointed Attorney General of the United States suddenly descended on Kansas City, and took the credit for the four-year-old investigation by the Intelligence Unit of the Treasury Department, which had finally stricken down the ancient rule of Pendergast. Here was another bit of evidence that the New Deal Administration was taking account of 'the Dewey threat.'

On January 4 there was a big dinner of party unity given at Albany by the state Republicans. Dewey made a speech full of humorous reminiscences, and he lifted up the fallen standard of the glory of Theodore Roosevelt and Charles E. Hughes; but he proved 'disappointing to those who had expected to get from him definite proposals for party action looking to the recapture of the Presidency.'

He continued, however: 'There is room in the Republican Party for men of good will of every kind of political opinion — liberals, middle-roaders, and conservatives of every shade of belief. Our strength is that we can harmonize our differences in conference and then go forward and give the people what they want — that is, good, clean, honest government.'

The Speaker of the Assembly, Oswald D. Heck, pointed to Dewey as the party's logical 1940 standard-bearer.

All over the country polls were being taken on presidential candidates, and Dewey's percentage began to rise by leaps and bounds.

But he still refused his own consent to every effort to push him forward. Forgetting his immensely successful failure to win the governorship, he took up the broken strands of the Hines 'mistrial,' resolved to weave them into a victory. He felt that the purity of all American politics was vitally involved in this case.

## Chapter XXX • THE SECOND HINES TRIAL

THE second trial of Hines was bound to be far more difficult than the first, since the defense had now been presented with the prosecution's case on a platter, while keeping its own case concealed. But this time there was another judge, one who was coming to the end of a most distinguished judicial career after more than twenty-five years on the bench.

The trial opened before Judge Charles C. Nott, Jr., in the Court of General Sessions, on January 23, 1939. During the selection of the jury, there were many hot words. The selection was complicated by the great publicity the first trial had received and the problem of how much each prospective juror had been prejudiced by it for or against the defendant. The transcript of this procedure alone fills five hundred pages of the stenographer's minutes. After three days the jury box was filled and the trial proper began on January 26.

Dewey opened with a speech describing first what 'conspiracy' meant, and how the twelve other counts of felony were based on the aiding, abetting, and protecting of the felonies of the Dutch Schultz gang in the policy game, which he again described in full detail.

In Stryker's opening speech, he charged that the whole case was composed of the perjuries that Dixie Davis had built up in order to win mercy for himself by dragging down Hines. Stryker denied that Davis had ever been an intimate of Hines and explained how easy it was for almost anybody to curry acquaintance with so popular a man. There was,

for instance, the Tammany institution of 'the June walk,' when 'on a good summer day the young, underprivileged children of the neighborhood, with bands of music, march to Central Park for a day's outing in their altogether too drab and underprivileged lives. Music costs money, refreshments cost money. Friends of the district contribute.' Probably the climbing young lawyer Davis had contributed.

Later Dewey damaged this pretty eclogue by showing that the only contribution made to that June Walk was plenteous beer furnished by Dutch Schultz.

Stryker described next Tammany's annual Christmas theater party for which tickets were sold at high prices. He suggested that Dixie Davis had probably bought and paid for a block. These kindly offices of Hines enabled Davis to get near him, plant money on him, and learn enough to weave a fabric of lies, a fabric that involved even such noble men as former District Attorney Dodge and Magistrates Capshaw and Erwin.

It was Dewey now who was breaking in with objections. He even accused Stryker of stating the prosecution's case instead of his own and apparently admitting meetings that Dewey was yet to prove. But Stryker's purpose was to show the utterly unscrupulous nature of the turncoats, Davis, Weinberg, and Schoenhaus, who had pleaded guilty in order to lessen the penalties they had incurred.

One of the newspapermen, John Crosson, wrote: 'In an opening address that kept Dewey bounding to his feet with objections, counsel for defense lifted huge chunks of the prosecutor's best material and turned it into arguments for his client.'

The next morning Dewey once more selected as his first witness Wilfred Brunder, who again described at great length the policy racket as he had taken part in it.

Again, as in the first trial, Stryker called a halt and insisted that before he went any farther, Dewey must prove the existence of a conspiracy involving Hines. Judge Pecora had granted that request and thrown Dewey's case out of gear. But Judge Nott said: 'I don't know any way you can prove a conspiracy except by conversations between the

conspirators. . . . It seems to me it is putting the cart before the horse to have the proof first.'

When Stryker reminded him of Judge Pecora's ruling, citing what he considered to be 'the law of the case,' Judge Nott replied: 'I do not consider myself bound by every ruling that Judge Pecora made.'

When Dewey finished his examination of Brunder, Stryker declined to cross-examine him, and Dewey put on a Harlem policy player, born in Curaçao, who told of his work in the game and of a raid in which he was taken to jail, and bonded; after the case had been adjourned from magistrate to magistrate, he said, it had finally come before Magistrate Erwin, since deceased; Dixie Davis was the lawyer, and the magistrate had dismissed all the defendants without delay.

Other policy figures testified, Ison and Foreman, and Gussie Silverman. Suddenly — as in all good dime novels — a shot rang out.

#### THE WEINBERG SUICIDE

In the first trial, when Judge Pecora had insisted on the proof of conspiracy and of Hines's connection with it, Dewey had satisfied Pecora by swinging forward George Weinberg, who had pointed his finger at Hines in the courtroom and 'put the finger' on him in his testimony.

Since the first trial Dewey had kept Weinberg and Davis and Schoenhaus in concealment, under strict guard. Part of the time they had been on a Long Island farm. Then they were moved to a rented house in White Plains. Davis tells in his reminiscences how Weinberg kept brooding over the danger of assassination. When he read that two of Lepke and Gurrah's mobsters, Louis Cohen and Danny Fields, had been murdered, Weinberg assumed that they had been rubbed out for helping Dewey. He was in ill health, troubled with severe pain and grew morose over the possible acquittal of Hines on the second trial; he kept asking, 'Who will protect us when Dewey goes out of office?'

On a Sunday afternoon, one of the guards, not wishing to alarm an expected caller or arouse suspicion in their quiet

neighborhood, laid off his pistol belt and left it in his overcoat in a closet. Weinberg noticed the absence of the gun, went to the closet, seized it, ran into the bathroom, and killed himself. Everybody felt that Dewey had lost a vital witness.

But the news of the suicide was kept from the jury for the time being, and the jubilant defense was shocked by a new witness who had not appeared at the first trial. Edward Severi, a bartender at the smart Embassy Club, pointed out Hines in the courtroom and said he had sat in the club eating and drinking with Dutch Schultz several times. Cross-examination merely strengthened his story that Hines and Schultz were 'steady customers.' The cashier of the club also confirmed the story from his own knowledge.

The next day, January 31, Dewey planned to read the testimony Weinberg had given at the first trial. Judge Nott sent the jury out of the courtroom while Dewey and Stryker fought over the admissibility of the evidence. Stryker insisted he had a right to tell the jury that Weinberg had committed suicide and discuss what his motive might have been. He maintained that Weinberg had preferred death to another of his cross-examinations. Dewey pointed out that Weinberg had already survived one such ordeal.

Finally Judge Nott ruled that Weinberg's testimony was admissible and said that he himself would inform the jury of the suicide. He sternly forbade any speculation on Weinberg's motives and barred any raising of the question as to how or why he died.

The jury was brought back, the judge told of the suicide, and then the dead witness spoke from the grave. For three days Assistant District Attorney Herman McCarthy impersonated Weinberg and Frank S. Hogan impersonated Dewey in the reading of questions and answers.

Afterward, while Dewey was going on with other witnesses, a storm against him was brewing outside. It brought Dewey and Lehman into another deadlock.

A lawyer in Mineola released to the press a letter he had written to the Governor protesting that Weinberg's fingerprints had not been found on the revolver he was said to

have shot himself with. He strongly implied that Weinberg had been murdered. When asked by the press about this letter, Dewey tersely commented: 'Crackpot stuff.'

Governor Lehman, however, took it seriously and sent a telegram to Dewey, giving it to the press. Lehman's telegram concluded: 'I assume you will investigate the circumstances surrounding the death of George Weinberg and make inquiry into the statements.'

'Your assumption is correct,' Dewey wired back. 'I did so last Sunday, the day he died. So did the District Attorney of Westchester County, the medical examiner, the police officials of White Plains, and the New York police. It is incontrovertibly established that George Weinberg committed suicide.'

But Dewey did not even mention the fingerprints. And everybody who has ever read a murder mystery knows that fingerprints on a revolver always betray the true murderer unless he wears gloves. Fifty thousand novelists can't be wrong.

The Mineola lawyer continued to bombard the press with his protests, until Dewey dealt a blow at all fiction writers. He said: 'In the last twenty years the New York police, in only one instance, have found fingerprints on revolvers used in murders or suicides.'

A police expert added his testimony: 'It's the way a person grabs a gun that makes fingerprints undetectable. It is held in the palm of the hand. And the metal or rubber grip seldom retains any sort of impression.'

The Newark *News* published an article:

Newark identification experts agree with New York authorities that there are incredible odds against the chance of obtaining identifiable fingerprints from a revolver. The long popular belief that prints on guns often proved the undoing of criminals was branded a myth by District Attorney Dewey. Prints are never found on the ridged handle, and the skin-print of the finger against the trigger is hopelessly smudged.

At the departmental hearing which followed, Weinberg's guard described the finding of the body as did the other



guards. Its position as it collapsed in the bathroom proved that Weinberg had stood in front of the mirror and shot himself. The doctor who had arrived before he died and tried to save him testified what he had found. The Westchester County police confirmed the details. The conclusive verdict was self-destruction.

But fiction writers, not knowing whether to blame Dewey, the man from Mineola, or the Governor for undermining an important tradition, decided to go right on using the old theory.

#### DUTCH SCHULTZ'S WIDOW ON THE STAND

The trial devoured day after day as witness after witness linked Hines with Schultz, with policy, with the intimidation of police officers and undue influence over magistrates. Stryker fought especially every effort Dewey made to prove that Hines had had policemen transferred for raiding policy banks. But to Dewey, 'This is the nub of the case.'

Suddenly he brought in a new witness, none other than Mrs. Arthur Flegenheimer, the widow of Dutch Schultz.

Her appearance was an utter surprise, a bombshell. In the first trial Dewey had saved her for rebuttal in case Hines took the stand. Dewey foresaw that Hines would not testify at the second, so he suddenly brought the widow of the dead gangster to the fore. The defense was aghast. The woman testified that her husband had introduced her to Hines and told her to forget that she had seen him. She had also met Hines often with Dixie Davis while Schultz was a fugitive and sending her money through Davis. Her testimony was paralyzing to the defense, but fearing that he might only bring out more damaging replies, Stryker was glad to let her step down after a few idle questions.

John F. Curry, the Tammany leader, reappeared on the stand and told of Hines's requests to him for the transfer of policemen, but Stryker knew now what Curry would testify and by objections kept his testimony to a minimum.

Another new witness was former Chief Inspector John J. O'Brien, who came out of his retirement in Florida by air

in response to a subpoena. He described how overzealous raiders of Schultz's policy banks had been speedily transferred or set back in rank. During Stryker's fierce cross-examination Dewey objected to one of his questions as 'ridiculous and incompetent.'

'Mistrial!' shouted Stryker.

But Judge Nott denied the motion with a smile, since it was not the defendant but his lawyer who had been called ridiculous.

Harry Schoenhaus, who had pleaded guilty, told how frequently he had paid Hines racket money.

At last, on the afternoon of February 7, Dixie Davis appeared. Dewey led him through his life-story and his relations with Schultz and Hines. Davis said that he had received no inducement for testifying except the District Attorney's promise to recommend that the sentencing judge take into consideration the fact of Davis's testifying for the People.

On the cross-examination Davis had nothing to lose. He had confessed to the habit of perjury along with his other activities. Stryker fought him up and down his whole career, and had a great deal to say of Hope Dare. He also tried to compel Davis to confess that the moneys he had paid Hines, if any, had been for charitable purposes only.

When Stryker had finished with him, Dewey took him back for re-direct examination, then turned him back for re-cross, took him back for re-re-direct, gave him up to a brief re-re-cross, and a final question of re-re-re-direct, to prove that Davis was in the policy business with Hines 'up to his neck' long after the date within the statute of limitations.

Max Steuer, the famous Tammany attorney, appeared again, and told anew how Hines had tried in 1931 to get him to handle Dutch Schultz's income-tax troubles. He said he had spoken to George Z. Medalie, then United States Attorney, and had learned that Schultz was up on criminal charges and his case could not be adjusted. Whereupon Steuer had dropped the matter.

Later in the trial, Dixie Davis's sister, Mrs. Rose Wendroff,

told once more of the five-hundred-dollar check she had given to Hines. The endorsement on the back was admittedly not in his writing, but now Dewey shocked the defense by producing the bookmaker's cashier who had made the final endorsement on the check, and who testified that Hines not only kept an account with his employer, but, on the very day he deposited the check, had received a credit on his account with his bookmaker.

After introducing forty-seven witnesses, Dewey rested his case.

The three major witnesses for the defense were former Police Commissioner Bolan, Magistrate Capshaw, and former District Attorney Dodge. Bolan, under Stryker's direct examination, painted an idyllic picture of himself as one who had not solicited the post of Commissioner, and who authorized transfers of policemen only when there was inefficiency or neglect of duty.

Under Dewey's retouching cross-examination this self-portrait became a caricature. The coincidence that Bolan's promotion over many older officers had been secured by Tammany influence did not look good. His ignorance of gangster atrocities appeared rather silly than laudable. One does not want one's policemen to be too girlishly innocent of evil goings-on. Dewey showed that the men transferred had built up the highest records. Bolan even stumbled and fell over documents signed and written by himself. He said that he did not know Hines well, although Hines sometimes visited him at Police Headquarters. He was puzzled by the coincidence that after Hines dropped in, good policemen had been dropped out. The one thing left of the testimony that was convincing was his denial that he was a friend of Hines. On the stand he was certainly no friend of Hines.

Magistrate Capshaw had been relieved of his duties as a result of the charges against Hines and had not been restored to the bench. He came now and denied that he had asked Hines to support him, as Dixie Davis had charged. He protested that he had never been influenced, much less intimidated by Hines. He insisted that his dismissal of men brought before him in the policy cases had been proper.

When he was turned over to Dewey, his dignity began to crumble. He was forced to admit that Dixie Davis had often appeared in his court and that he and Hines and Davis had met together at a night club. When Dewey reviewed his actions as a judge, there was an almost pathetic absurdity in his efforts to escape the evidence that he had done what Hines wanted.

Questioning him about a raid on 'one of the biggest policy banks in Harlem,' Dewey demanded, 'You knew it was a policy bank, didn't you?'

The magistrate who had handled over two thousand policy cases answered: 'I did not. I didn't know what a policy bank was.'

When Dewey, speaking of a collection of prisoners brought in from a policy raid, asked how the magistrate could doubt what they were, he answered that they might have been 'cooks or waiters working in the place.' A lone pie had been found on one of the tables!

It was shown that when Hines was afraid to attract attention by having Capshaw dismiss too many policy cases, he had them sent before Magistrate Erwin, who had died before the trial, but whose rulings were as peculiar as those of Capshaw.

When Dutch Schultz's own bodyguard, 'Lulu' Rosenkrantz, was arrested for possessing policy slips, Davis had telephoned Hines, who had promised to see Capshaw and evidently did, since Rosenkrantz had been discharged for reasons which Dewey held up to ridicule as 'fantastic.'

Former District Attorney Dodge took the stand and was a dignified witness under Stryker's direct questioning. He denied that he had ever asked to be or wanted to be District Attorney; denied that he had ever met Weinberg or seen any money passed to Hines in his presence; denied that Hines had ever mentioned Dixie Davis's name to him. He told of his efforts to curb policy.

Yet Dewey on cross-examination soon had him admitting that he and Hines had been warm friends for twenty years; that he knew Lyon Boston was the least experienced member of his staff, yet had put him in charge of the investigation;

that Dixie Davis had not been subjected to too close examination before the grand jury; that he had done or left undone many things beyond explaining.

#### THE CROSS-EXAMINATION OF DODGE

But it was in connection with his campaign moneys that Dewey shook Dodge most disastrously. Though he had said he had not wanted to be District Attorney, he had been so alarmed by the lack of campaign funds that his campaign manager had gone to Hines. Thereafter money had come to his campaign manager in bundles of big bills; but he had never asked where Hines got it. Even when it was testified before his own grand jury that thirty thousand dollars of it came from the Dutch Schultz gang, he had not been interested enough to verify the charge or find out if he had been elected by mobster money.

Dewey showed him a report of his campaign fund contributors which accounted for thirteen thousand dollars and demonstrated that almost the entire amount had been falsely reported. Contributions shown to have come from Pompez, Ison, and others (who had charged the items on their books to the campaign fund) were listed on the report as coming from friends of Dodge and Hines, though they not only had not contributed a penny, but had been too poor to give the sums set opposite their names.

Dodge left the stand in great disarray.

Lyon Boston came to the stand again on February 17. It was while questioning him in the first trial that Dewey had asked that famous question about hearing Hines's name mentioned in connection with the poultry racket—the simple question that had led Judge Pecora to throw the first trial of Hines out of the window.

Boston still boasted of his active prosecution of policy promoters and of the raids he had made. But his record collapsed before Dewey's cross-examination.

Everybody who could crowd into the courtroom or read a newspaper or hear a radio report of the trial—everybody in the United States, it seemed—was waiting for the day when Hines should take the stand and confront Dewey.

Dewey himself was waiting for that great meeting. He had had two assistants working for six months to arrange the evidence against Hines and compile a forty-page brief of it. As the case drew near its close, he had a huge cabinet packed with documents concerning Hines trundled into the courtroom for use in case Hines took the stand.

In the first trial, or mistrial, Hines had shouted 'You lie' once and made never another sound. In the second, or real, trial he did not even do that.

Under the law the prosecutor may not comment on the failure of a defendant to take the stand. Comment was not necessary.

The public did the commenting, and volubly, when, to everybody's intense astonishment and disappointment, Stryker, after four weeks of trial, closed the door that kept Dewey from Hines, with the words: 'The defense rests.'

The public was robbed of an historical event when Hines decided not to subject himself to Dewey's cross-examination.

## TWO ADDRESSES TO THE JURY

In his summation Stryker savagely excoriated Dewey's witnesses and hardly less virulently assailed Dewey for attacking the honorable magistrates. Though forbidden by the court, and in spite of Dewey's protests, Stryker played up his versions of Weinberg's reasons for suicide and tried to wreck the effect of the posthumous testimony. He lauded Hines to high heaven as an example of the spirit of democracy, cruelly and shamefully persecuted for political purposes, contrary to all principles of justice.

Stryker gave a masterly exposition of old-school eloquence. A man of wide reading and no little erudition, he was not stingy with his learning. He gave the jurors the benefit of it and took them on tour through so much history and geography that Dewey in his summation touched him with a flick of satire:

'It has been said that "when an orator meets a fact he makes a detour." I do not intend making detours to Gettys-

burg, Williamsburg, the battle of Runnymede, Germany, Italy, Russia, Switzerland, or South America.'

While Stryker's ringing voice had made it doubtful whether his speech were oratory or oratorio, Dewey spoke so softly and so intimately to the jury that his own assistants just back of him could barely hear what he said. But the jury drank it all in.

It was on the morning of the next day, February 24, that Dewey began his summation for the People. He apologized for the length of the trial and its unpleasantness. 'It is not pleasant to have to sit in a courtroom and hear yourself falsely accused; or to hear your assistants falsely accused by defendant's lawyers. That, however, is part of the routine of the business. We get used to it.'

He promised to present the facts as briefly as possible; but it would take a long time and he hoped the jury would bear with him.

'One thing occurred yesterday which I must speak about with some firmness. There was an attempt, studied, willful, to create some kind of vague impression that a corrupt politician, sponsoring gangsters, allowing crime to breed freely, and interfering and preventing the law from protecting our citizens — there was an intimation that that kind of politician had something to do with the preservation of democracy. There was some kind of intimation that Hines and his counsel were symbols of a democracy. And there was some kind of intimation — vague, veiled, not daring to say it — that the public prosecutor or his assistants were importing foreign methods of prosecution. That I resent as a dirty business. That, I suggest to you, with probably more feeling than I shall use at any other time today, was a willful and a filthy attempt to arouse some kind of passion on behalf of a betrayer of the essence of democracy....

'Gentlemen, to the law there isn't any difference between a Democrat and a Republican, or a Socialist — or a Communist, if you will. There isn't any difference to me, I may say, and I will prosecute a Democratic district leader as quickly as I will prosecute a Republican Richard Whitney. That has always been true in the eight years of my public life as a prosecutor. I hope it will continue to be.'

He took up the meaning of 'conspiracy' and said that ninety per cent of the evidence against Hines had not even been questioned on cross-examination. It stood up like a rock.

He made quaint quotations from the witnesses, and they bore the stamp of truth, shady as those witnesses were. He ridiculed the defense's exaggeration of the importance of exactly remembered dates and places. Referring to some of Weinberg's slips in his prolonged session, Dewey said: 'If a man didn't make a mistake in testimony like that, then that man would be a liar.'

Yet, he pointed out, every element in his case was supported by documents or by unimpeachable testimony.

Dewey's Irish blood came out again in another exquisite twist of phrase: 'You can't be perfect; and, if you are, there is something wrong.'

One thing, he declared, was undeniable: 'We have the brazen establishment of a criminal enterprise, a whole criminal empire, by the most notorious gangster of New York, who was concededly the intimate and associate of the defendant Hines. We have him boasting brazenly, "You can complain to the police from the Battery" to where he was, "and it will do you no good." We have the testimony of witness after witness as to what happened; as to the statement that money was to go to Hines's club; as to the drop in the policy arrests....

'Who else but Hines could be responsible for these things, the pal, the associate of Dutch Schultz? How else in Heaven's name could these things have been brought about? If you can answer that question, if there is any other way, you refer to something that defense counsel hasn't thought of in the eight months they have had to work on this case, with obviously limitless resources.'

He took up the defense's defense of Commissioner Bolan, Magistrate Capshaw, and Dodge:

'Counsel said yesterday I should have indicted Capshaw and Bolan and Dodge. Gentlemen, there is no evidence in my possession or anybody else's, so far as I know, that any of these men knew they were doing anything more than a



favor for a politician to whom they were beholden. Now, a political contract was not invented by me. A political contract is something which was known, I suspect, a long time before I was born. A political contract is something you do for a politician.

'Corrupt? Wrong? Yes. And, where done for a politician who is protecting a mob which is preying on the people of a whole city, something which strikes at the very heart of organized society. But that does not mean and I do not contend that Capshaw knew he was doing this for the Dutch Schultz mob; or Bolan or Erwin, or Dodge, or anybody else. All they knew was that the most powerful man they knew and to whom they were beholden, said, "Do this for me," and they said, "O.K., boss, I have never let you down yet; I want to be reappointed to that magistrate's bench when my term expires; I want to stay; I want to be elected; I can't be without you." Obviously.'

Then he tore to pieces the answers they had given from the witness stand.

'I won't call it perjury; I cannot. I leave the question to you. There is no legal question in that case at all, gentlemen. There is no factual question. You have seen those officers and you have seen these shocking answers, pretended explanations.'

He contrasted the gentleness of the magistrates to the gangsters with their cruelty to petty, unprotected dealers, including poor women. He said he had taken up with distaste the case against the dead magistrate Erwin; but, else, he would have been guilty of neglect of duty. Stryker had 'conjured the influence of a dead man. He asks you to be guided by his spirit in the jury room.' Yet Erwin had kicked out well-proved cases, just as Capshaw did.

In defending the persuasion of Weinberg and Davis to turn State's evidence, as well as the truth of what they had said on the stand, Dewey surprised the jury by casting an unsuspected light on the whole duty of every lawyer:

'Any lawyer as a matter of law and ethics is under a duty, if he has a witness on the witness stand who is committing what he knows of his own personal knowledge to be perjury

— he is under a duty to take the witness stand and contradict that witness or correct it himself in examination. If I or my assistants had heard lies being told by our witnesses and had not protested, then we were unfit to be members of the bar.'

He ridiculed with tenderness Lyon Boston, 'the freshman of Dodge's staff,' and he wanted to know why one so ignorant had been entrusted with such important work: 'I do not criticize Mr. Boston's sincerity in his efforts.... But, if you were Dutch Schultz, trying to figure out how to keep your power, to be safe, what would you do? Wouldn't you like to have the youngest and most inexperienced member of the District Attorney's staff all alone, without help, set to prosecuting those cases? and have him get all excited about a contempt case against some lawyer, and get nothing bigger than a collector or employee in a policy bank, so that there is a pretense of activity while the mob is safe?'

He was not merciful to former District Attorney Dodge or his relations with the runaway jury, with Hines and with Dixie Davis. He took up Hines's prolonged intimacy with Schultz and his gang. Hines had even tried to save the wealthy Schultz from income-tax troubles: 'Hines was trying to corrupt the whole state, gentlemen, trying to make it safe everywhere for his pal, and his sponsored criminal enterprises.'

He asked the jury how they supposed the state got Max Steuer's testimony: 'You don't suppose Steuer put his briefcase under his arm and walked into my office one day and said, "Hines tried to hire me for Schultz," do you? Do you imagine Steuer doing that? It is another one of those cases in which Davis told us the facts. And then we go and get Steuer, like Sobel, like Murray, like all the other hundreds of people who have been interrogated in this case — and it's true.'

Piling up the evidence against Hines and his close association with Schultz and others whom Stryker had called 'that dirty mob,' he said:

'But, gentlemen, this defendant chose to keep them at liberty and to take their money, to live with them, to pro-

tect them, and to perpetuate them to prey on you and your neighbors and the people of the City of New York and its Police Department and everything else. He picked them.

'These witnesses didn't pick them. I didn't pick them. They are Hines's chosen associates. And so all of those fifty-seven varieties of epithets, every one of those epithets which you heard here yesterday, is just as applicable to the defendant, because they are his chosen, conceded associates. . . . Who picked Hines? Who picked Schultz? Who put them together? They put themselves together, and they admit they were there. And what other thing could that have been for, except for dirty business?'

He listed the long array of witnesses he had presented, and said to the jury:

'You have an inevitable march of truth which you cannot resist.' If the defendant was innocent, he said, then all of these honorable witnesses, who had nothing to gain, were as corrupt as Dewey himself and his staff must have been to rig up the story.

'It is not a pleasant task for a District Attorney to go through a case like this once, to say nothing of twice; but there is a high duty that comes to all of us in our lives. We have ours every day. We have to do it. If we did not do it, civilization and the democracy, of which my learned adversary spoke, would be in a very, very bad way. . . .

'The important thing is that you declare to the people of New York, the police of New York, that they are free; that they will no longer be betrayed by a corrupt alliance between crime and politics; that that alliance is going to be smashed by this jury and branded as something we won't stand for, because we want to keep the kind of system we have in this country and we don't want it polluted by a betrayer. We don't want protection of gangsters by political leaders.

'You are good New Yorkers and you love your city. You want your city to get better and better and to remain and become cleaner. You want to remove cancers that grow at the heart of your government, wreck the morale of your police force, wreck the morale of your courts, and wreck the

morale of any public official who has to come within the contaminating influence of a politician operating with gangster money as his background. If you do not do that, gentlemen, what are the consequences? What notice are you serving on the police and on the public and on everybody else? You know. I don't even need to outline it.

'There couldn't be organized crime for five minutes in this country if the paralyzing hand of a crooked politician weren't available to break an honest cop or to tell a magistrate what to do, or to use gangster funds to elect a public prosecutor who is under his control.

'Let us decide what we want for ourselves and our community. Do we want to remove that cancer? Do we want to see that in the future it shan't happen again?'

As simply and quietly as he had begun and continued throughout his long summation, he concluded: 'I thank you for your long attention. I know you will do your duty as citizens of New York.'

#### 'GUILTY'

The next day the judge charged the jury and they were sent away at noon. Enhancing the suspense they came back twice, not to give a verdict, but to ask for instructions; once, as to the legal definition of conspiracy; once, as to the statute of limitations. But at last, after seven hours, they returned in the deep dark of 7.14 P.M. on February 25, 1939.

Hines was told to rise, and hear the clerk ask the foreman of the jury the dreadful question:

'On the first count how do you find the defendant?'

'Guilty.'

A strange thing happened now. A zealous reporter 'forgot' the court's order that no one should leave the room. Without waiting for more than the first word from the jury, he darted through the door. Outside in the rotunda a huge crowd was waiting. He yelled to his telegraph man, who was waiting on another floor, the one word:

'Guilty!'

The throng heard it and let out such loud cheers of ap-

proval that they resounded through the courtroom and the clerk had to wait for the noise to subside before he could go on with his question.

'On the second count how do you find the defendant?'

'Guilty.'

To the whole baker's dozen of counts, the foreman responded with thirteen 'Guilty's.'

Hines stood it like a blacksmith, but a reporter pushed close to ask him the peculiarly tactless question: 'How do you feel, Mr. Hines?'

'How would you feel,' Hines answered, 'if you were kicked in the belly?'

That was the way Tammany Hall felt. Now there was no cheering mob of retainers to pick Hines up and carry him on their shoulders. There were no boos for Dewey when he went forth weary and meek from the scene of a triumph all the greater for being built out of the wreckage of that first 'mistrial.'

To the clamoring press Dewey gave out a brief statement, making no mention of his own part in an epoch-making victory over political power ill-used:

The members of the jury are entitled to the thanks of the whole community. By their verdict they have reasserted the ability of democracy to clean its own house and cast out those who betray it. I cannot praise too highly the work of the men who have been responsible for the investigation and presentation of the evidence in this case, Assistant District Attorneys Charles P. Grimes, Sol Gelb, Frank S. Hogan, and Herman McCarthy, as well as the police officers and investigators who have worked so hard on the case for many months.

The victory came home to Dewey's mother, who had grieved over the failure of the first trial, and had waited in anxiety for the end of the second. It was a little after six o'clock in Owosso when the jury returned in New York. Her radio was humming idly with dance-music — there came a sudden pause. A voice rolled out:

'We interrupt the music a moment to announce that the jury in the Hines trial has just brought in a verdict of Guilty on all thirteen counts.'

Then the music began again, while Mrs. Dewey ran to telephone the news to those who had known Dewey as a boy and watched his career with poignant anxiety.

Judge Pecora was ill for a long while, and it was not until March 22 that he recovered sufficiently to sentence Dixie Davis to one year in the penitentiary and Schoenhaus to two years. This latter sentence he suspended on Dewey's recommendation.

In pronouncing sentence on Hines, Judge Nott denounced him for his evil deeds and said there was no excuse for shortening his term except his age, sixty-three; so the judge fixed the sentence at from four to eight years, and announced that if any witness in the case were annoyed or attacked, he would recommend to the Parole Board that Hines be deprived of any time off for good behavior.

After being sentenced, Hines was sent to cell 230. The next day the policy players, with unshakable devotion, played 230. And had their usual success.

Lloyd Stryker withdrew from the case, giving way to Martin W. Littleton, who, on April 4, won for Hines a certificate of reasonable doubt from Supreme Court Justice Peter J. Schmuck. Pending appeal, bail was set at thirty-five thousand dollars. Hines was able to furnish this amount, and was released to await the decision of the higher court.

Hines left jail after twelve days' incarceration, and, as he came forth with his counsel Littleton, three hundred members of his Monongahela Club greeted him with cheers.

Thus, a case in which Dewey ran across the first suspicious item in a federal prosecution in 1931, which developed with the policy-racket investigation launched in 1935, and which came to a head with Hines's arrest in 1938, is still pending at the time of this writing. Such is the patience one must exercise in the arduous task of smashing organized crime and its political protectors.

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## Chapter XXXI • MANTON

THE conviction of Hines stirred the nation as few trials had excited it in living memory.

The mistrial, followed by Dewey's defeat for the Governorship, had actually lifted him higher in public esteem and trust. His return to his unfinished task and his final triumph in it sent him to the peak of national interest and favor.

Headlines streamed across the pages of the nation's press as telegraph poles sweep past an express train. The pages bloomed with photographs and the cartoonists presented Dewey in every allegorical and emblematic manner familiar or imaginable. Every editorial page sang hosannas to him in his double rôle of one who exposed the hideous morass of hidden politics and dragged out for punishment the figures that had wallowed there in perfect security for years.

Among the thousands on thousands of editorials, this from the Salt Lake City *Tribune* may be cited as typical of the national emotions:

Like a rainbow in the eastern sky is the recent conviction of James J. Hines, the policy racketeer, Tammany political magistrate-manipulator and jury-fixer, who escaped a similar verdict several weeks ago when Judge Pecora declared a mistrial for obscure reasons that no explanation has ever made passably clear.

The result is reassuring to the inhabitants of America's greatest metropolis, to the law-abiding people of the whole country.... The conviction will encourage prosecutors in other cities to clean or close their cesspools of vice and infamy. ... Regardless of party affiliations the people of New York City will acclaim the dauntless District Attorney as the representative of moral and legal reform throughout the United States.

The political consequences of the victory were sweeping. Dewey had dragged the popular Democratic Governor of the largest state in the union to the very brink of defeat in spite of the personal intervention and personal attack of the Democratic President and members of his cabinet.

In his speeches Dewey had assailed the Democratic machine that upheld the respectable Governor and the revered President; he had called it a monopoly destructive of freedom and efficiency, pointing out that several of its local organisms were solidly controlled by bosses allied with racketeers. The feeling was general now that it was the crooks who had cheated Dewey out of the governorship.

In Hines he had wrecked the master of Democratic patronage in New York City and proved that he had long been in league with bloodthirsty gangsters who had flourished for years with the full co-operation, positive or negative, of politically controlled public officials who had permitted the pillage of millions on millions from the people.

A further result of Dewey's disclosures in the Hines case was that the Appellate Division ordered an investigation of Magistrate Capshaw, appointed the eminent jurist, Thomas D. Thacher, to make a report, and ordered Capshaw to explain why he should not be removed. With Weinberg dead, the only evidence against him was his own testimony under Dewey's cross-examination. The decision of the court had to await the decision on the Hines appeal.

Now came the profoundly shocking sudden downfall of Martin T. Manton, senior judge of the United States Circuit Court of Appeals, one of the very highest members of the federal judiciary. He had been accused by Dewey of accepting nearly half a million dollars in bribes for decisions in cases involving vast sums. Though the New Deal authorities rushed in to save its face after the judge's overthrow, it was Dewey whose two-year investigation and unprecedented charges filed with the Judiciary Committee of the House of Representatives exposed Manton's betrayals of his high trust and drove him from the bench.

For years Judge Manton had had a bad name among lawyers, and his receivership appointments had looked suspi-



cious. But there was no evidence, and he was a fearsome personage to criticize. He had wide influence, and his host of friends included James J. Hines.

It was to Manton that Dewey owed all the frustration he met in dealing with Lepke and Gurrah. While Dewey was Special Prosecutor, piling up evidence of their murderous racketeering, the federal authorities accused them of violating the anti-trust law, for which the extreme penalty was two years. Lepke and Gurrah were captured and in a mood to 'take the rap' for two years in order to escape what they knew Dewey had in store for them.

The federal case had fallen into Judge Manton's hands on the appeal, and Dewey had gone to him personally to say:

'If Your Honor grants these two men low bail, they will take to their heels because they know, through the witnesses and victims I am questioning, that I'll soon have evidence enough to send them away for a thousand years. But I dare not break my case till I have so many witnesses that they can't slaughter them, as they'd be quite willing to do. They're the two greatest racketeers in America. I beg you not to grant them low bail.'

Manton promised Dewey: 'Don't worry. I'll not let them go.'

Three days later, Dewey read in the newspapers that Manton had released Lepke and Gurrah on low bail two days before. This was in 1937, and they had skipped their bail. Gurrah later surrendered and was imprisoned, but Lepke was at this time still a fugitive.

In connection with the garment investigation, the books of a garment manufacturer had been subpoenaed. Dewey's accountants had found that Manton had borrowed twenty-five thousand dollars from the garment manufacturer and questioning had revealed that the money had been repaid by the judge in cash. This set Dewey thinking. Why should a federal judge have borrowed twenty-five thousand dollars from a comparative stranger? Why would he have repaid such a sum in cash? Had he kept it in a safe? Or in a tin box? Dewey stored these queries in the back of his mind.

After Dewey became District Attorney, he ran upon other leads concerning Manton. He directed Murray I. Gurfein, now chief of the Rackets Bureau, to assign two assistants to follow those leads, believing they would establish that Manton was corrupt.

During all the preparation and trial of the first and second Hines trials, as well as the governorship campaign, the work had gone quietly forward. While laying the foundation of the case against Judge Manton, Dewey's staff prosecuted one of his associates for contempt in suppressing evidence, and convicted another of taking a bribe. At last the case was ready on six counts with more to come.

In the midst of the second Hines trial, the *New York World-Telegram* had begun to publish a series of articles based on its discoveries that Judge Manton was engaged in big business incompatible with his high position on the bench. The Chairman of the Judiciary Committee of the House of Representatives, Hatton W. Sumners, announced publicly that he was going to look into the matter.

Immediately Dewey called his assistants into conference, and they agreed that it was their duty to lay before the Judiciary Committee the evidence they had accumulated proving that Manton had accepted separate bribes aggregating \$435,000.

Four men in the Rackets Bureau worked all Saturday night and Sunday. Dewey telephoned Chairman Sumners and explained what he was preparing. During the fever and stress of this Sabbath, suddenly word came that George Weinberg had shot himself. Still they worked on the Manton letter. It was finished at 4 P.M. Dewey signed it and sent it, and later gave a copy of it to the press.

Of this letter Dewey says: 'If a single count had been false, it would have been the most libelous charge a lawyer ever made against a judge in history.'

Carefully phrased, without an adjective, the letter was the more devastating in its simple, precise statement of fact, with names, dates, places, and specific sums of money, each connected with a judicial decision of the high court over which Manton presided. In the six cases cited, the moneys taken

from the parties to the litigation were traced, detail by detail, through dummies and friends of the judge, into corporations controlled by the judge, to creditors of the judge, and large sums directly to his secretary.

The cases cited in the Dewey letter are worthy of note because they demonstrate the manner in which Manton dispensed federal justice.

#### THE CASES CITED IN THE DEWEY LETTER

The first case dealt with a patent suit involving the Schick electric razor and the Packard razor. The lower court held for the Schick interests. The other group appealed to Manton's court.

Archie M. Andrews, who controlled the Packard patent, had a confidential agent named George M. Spector. While the case was pending in Manton's court, Spector received large sums of money, similar sums being drawn simultaneously from various Andrews corporations. At the same time similar amounts found their way into various corporations of Judge Manton or to the bank account of his secretary. Shortly before and after Manton's court reversed the decision, the Manton corporations received a total of \$77,000 from Spector.

The second transaction showed the judge to have borrowed \$12,000 from a man Manton had caused to be appointed a trustee in bankruptcy during the very period that the trustee was receiving his fees.

In a third situation Manton was shown to have borrowed \$10,000 from an insurance agent on the representation by Manton that he would procure the insurance business for the lender on a brewery then in federal receivership.

In a fourth case it was shown that Manton borrowed money, through a man then under indictment, from a bank of which that man was chairman of the board. Manton sat on the appeal of this person while he was indebted to the bank in the sum of \$37,000.

The fifth transaction involved a series of loans to Manton totaling \$50,000 from a principal stockholder of a moving-

picture company. These loans occurred just before and after a favorable decision affecting the company.

The sixth case involved a loan in the amount of one quarter of a million dollars, from which Manton benefited. The loan, which went to an associate of Manton, was arranged through two lawyers who represented the American Tobacco Company while that company had an important suit pending in Manton's court. Manton voted in favor of the company. No part of the money was ever repaid. It was not suggested that the company knew the purpose of the loan.

Closing the staggering details of corruption, Dewey's letter gave credit to his assistants, Gurfein, Frank S. Hogan, Aaron Benenson, Victor J. Herwitz, and Lawrence E. Walsh, as well as to the accountants who had worked on the case, and tendered their services to Congress in presentation of impeachment charges. The letter concluded: 'If, upon the foregoing facts, the House of Representatives should assume jurisdiction of this matter, I am prepared to present evidence before your committee in support thereof.'

With an unfriendly Democratic President, and both the House and the Senate overwhelmingly Democratic, he had placed his case in the most hostile hands possible. It would be one of the gravest impeachment charges ever presented by the Congress to the Senate of the United States, and Dewey was prepared.

But the end came swiftly. The charges were published in the morning newspapers of Monday, January 30, 1939. That afternoon the highest ranking jurist in the United States next to the Supreme Court resigned from the bench. There was to be no impeachment. The President accepted his resignation.

The beleaguered Administration at last stepped in. The newly appointed Attorney General Frank Murphy asserted that his office, too, had been looking into the matter — even indicating that he had secretly negotiated with Manton for his resignation.

Inasmuch as criminal jurisdiction rested with the federal courts, Dewey's job was finished, so he proceeded to turn all

of his evidence over to the Department of Justice, which proceeded to try and convict Manton.

The public had known nothing of the careful investigation by Dewey until the newspapers shouted:

**Manton Quits Under Fire as House Gets Dewey Charges.**

## Chapter XXXII • TWENTY-FIVE MILLION NICKELS

THERE was a bit of much-needed comedy relief in Dewey's next case. The public had watched the overthrow of a political leader in alliance with bloodthirsty gangsters, and the downfall of a most eminent judge who sold justice for vast sums. It was ready for the laughter Dewey's next announcement evoked.

He stated that employees of the city's independent subway, humble station agents and horny-handed repairmen, had been purloining petty cash to the equivalent of twenty-five million nickels.

Almost always before, Dewey had cut down the extravagant hyperboles of those who toss millions about and tie strings of ciphers to every number. But this time it was he who multiplied the first guess.

The newspapers hooted at the figures, and the Chairman of the Board of Transportation, John H. Delaney, ridiculed the charge as preposterous. He said the entire thefts would not exceed a thousand dollars. He proved only how preposterous the subway accounting was.

Every day of the week, not omitting holidays or Sundays, since the subways had been opened, the speculation had been going on. Nothing was more mysterious than the fact that it had never been suspected all this while, though the thieves were not modest. If a station took in, say, eight hundred dollars a day, they held out, say, four hundred fares. Like other parasites, they wanted to keep their host alive, but little more.

The best of it was that the city had installed the turnstiles

and slot-boxes in which the passengers dropped their nickels in order to prevent theft and save money. The station agents were supposed merely to police the platforms and make change for those who had no nickels. But theft was so easy and the business ran on and on so smoothly that the honest agents were looked down on as eccentrics.

The method of stealing the money was simplicity itself. The turnstile mechanism would occasionally get out of order. So a maintenance crew was required to keep them in repair and in adjustment. Each maintenance man cared for a group of ten stations. Those with felonious ideas would go to an agent, discuss the average gross intake of that station and then say, for example: 'I'll set this back so that it will show four hundred less fares than the machine takes in.' In trade parlance he would really say, 'Let's belt it four hundred fares today.' The station agent would note the figures on the turnstile, hold out an amount of money equal to the number of fares agreed on before he turned in the day's takings with an account to match the loot. He took the money in bills, of course, from the change booth. Later he would give his confederate half of what he had stolen.

The maintenance men displaying their badges worked openly in the presence of the passing throngs while they turned back the turnstiles as far as they thought wise. Each station agent's speculation was limited, since he had but two to six turnstiles to milk; but each maintainer had a chain of ten stations and could accept half of the outtake at each.

On January 14, 1939, a metropolitan newspaper carried a story concerning the alleged theft of two hundred and fifty thousand dollars by employees of the city's independent subway system, and stated that the Board of Transportation planned to hold departmental trials for the accused employees, while the District Attorney's office would hold off possible criminal action pending their completion.

Dewey read this story. It was not his policy to sit by and hold off criminal action if a crime was indicated. He sent at once for the Chairman of the Board of Transportation, who assured him that it was all a minor matter and that at the most a thousand dollars was involved. Dewey minimized





the story to reporters, but he insisted that the records and material gathered by the subway's police officers be turned over to his office.

Over the week-end, Robert H. Thayer, chief of Dewey's Indictment Bureau, scrutinized the reports and talked to the police officers. He stated in a memorandum summarizing his findings concerning some of the culprits:

... A conservative estimate of the amount of money taken by these five men with the co-operation of these thirty agents is an average of at least a thousand dollars a week per main-tainer.

That afternoon, forty employees or former employees of the subway system were brought in for questioning. Thayer and the other assistants assigned to the case worked all night.

Then Dewey called in the reporters to explain that he had unwittingly deceived them. The less than a thousand dollars should have been more than \$1,250,000. He also announced the arrest of eight men. The newspapers figured this out as twenty-five million nickels and found the figure beyond belief.

But the next day Dewey announced the arrest of seventeen more employees of the subway system; eventually the total reached thirty-six, of whom twenty-nine pleaded guilty.

The investigation had been managed cautiously, lest it start a stampede of flight. One of the arrested agents had two homes, two automobiles, two bank accounts, and made hundred-dollar bets at the race-tracks. He surrendered twenty-seven hundred dollars in cash, which he had hidden in Jello boxes. It is now believed that the final figure will run to more than \$1,500,000.

While dealing with legislators, politicians, magistrates, lawyers, high financiers, and racketeers who betrayed their high offices or used threats of death or mutilation to extract millions from industry, Dewey's office had also to pay unremitting attention to the unending flood of petty thieves, swindlers, burglars, hold-up men, and common or garden murderers.

The war against weeds and rackets is eternal. Evidences were now beginning to appear that a new ring of ambulance-chasing lawyers was growing up. It was loosely organized as yet, but of large proportions, extending through all five boroughs of the city.

#### THE RING OF AMBULANCE CHASERS

These lawyers had solicitors or 'runners.' The runners had access to the teletyped police reports of accidents. Reading them, they would dash out to find the victims and solicit business for the lawyers from whom they took commissions. In lucrative cases a runner might make as much as four hundred dollars. In one instance one of them invaded a hospital, shoved a pen into the hand of a woman in a critical condition, and secured her signature while she was too weak to know what she was doing.

The newly created Fraud Bureau of Dewey's office was then headed by Barent Ten Eyck. Instead of making an arrest or two on a complaint or two, he co-operated with the Headquarters Squad of the Police Department for six months. Then, on March 10, 1939, at five o'clock in the morning the police swooped. They arrested twenty-four lawyers and runners and charged them with conspiracy.

An interlude of good cheer in all these grim businesses was given at the annual dinner of the Legislative Correspondents Association in Albany, a sort of Gridiron Club. Among the guests were Governor Lehman, Postmaster General Farley, Mayor La Guardia, Alfred E. Smith, and Dewey. In the show, the impersonator of Dewey wore a Boy Scout's uniform; he was hitch-hiking from Owosso to Washington. On the way, 'King Herbie Lehman' dubbed him Sir Galahad and commissioned him to clean up New York, whereupon he sang (to the popular tune, 'Small Fry'):

'Wise Guy! that's me, Tom Dewey.  
Gee whiz! Democrats are screwy.  
Ha ha! they let me steal the show,  
I'll soon become a high and mighty foe.'

Later in the review, Republican National Committeeman

Hamilton was impersonated leading a little flock of presidential candidates. The stage Dewey, returning from his 'errand in New York,' pushed in among them. His rivals, indignantly denying his knowledge of important subjects, cross-examined him.

The stage 'Senator Robert Taft' demanded: 'What would you do about the international situation?'

'Dewey's' solution was simple: 'I'd just indict Hitler and Mussolini.'

'Hamilton' pointed to his other candidates and asked: 'What you got that these other guys ain't got?'

'Nothing,' said the stage Dewey. 'Nothing but the votes.'

The speech that Dewey made in person during the evening was in the hilarious spirit of the occasion and quite as laugh-worthy. But since his remarks were 'off the record,' they cannot be quoted.

While the newspapermen took Dewey both frivolously and earnestly, his standing with the New York police was shown when he was invited to a Communion breakfast of the Holy Name Society of the New York Police Department. The speakers were a Bishop, a Senator, the Governor of a New England State, and Police Commissioner Valentine. Six thousand policemen marched from Saint Patrick's Cathedral to a noon breakfast at the Hotel Astor. Dewey sat at a table with other officials. Valentine, in his speech, casually mentioned the name of Dewey. The result was surprising. The whole six thousand policemen rose, shouted 'Attaboy, Tom,' and applauded for several minutes.

Another pleasant tribute was the deferred presentation, on April 11, of the Saint Nicholas Society's gold medal of merit before five hundred members. Dewey insisted on sharing the honor with his aides, and minimized his own deserts:

'I should be an unconscionable faker to accept the medal on my own behalf without accepting it also on behalf of the seventy-eight attorneys on my staff and the one hundred and fifty other members of my office. Everything I have accomplished has been done by the office of which I am the luxuriously relaxing head.'

His keen sympathy with the rights of labor was again demonstrated when he made the first use of a measure called 'the anti-strike-breaking law,' passed April 1, 1938. It barred the use of ex-convicts as strike-breakers. Dewey arrested fourteen men with criminal records on charges of perjury. He said: 'These arrests will put teeth in the law and should serve to stop the use of murderers and gunmen in industrial disputes.'

When the Gridiron Club in Washington held its spring dinner, Dewey was present both as a guest and as a character in the show. He and Senator Taft were impersonated as two rival Hamlets.

#### THE CARDINAL NEWMAN MEDAL

More solemn honor took him as far west as Urbana, on May 2, where the Cardinal Newman Foundation at the University of Illinois had voted him its award for 1938, a medal conferred annually on a person who 'has made an outstanding contribution to the enrichment of American life.' When this great Catholic Society thus honored a Protestant, three thousand persons packed the hall. Hundreds sat or stood in the aisles to hear Dewey's speech of acknowledgment:

'I accept the Newman award with deep gratitude and humility. For any man must be humble as he contemplates another who lives on after death in the minds and hearts of mankind. There are many whose names are recorded in history for the things they have done, but their deeds have ceased to be living things. Like the pyramids, they are barren monuments to a dead past. There are others — a few — who live on because the thoughts they expressed and the ideals they lived have become part of the thinking and living of succeeding generations. Cardinal Newman was such a man.

'He lives with us today because he was not content merely to theorize about the fundamental principles of right conduct. He fought to make those principles live — to make them work. With rectitude and profundity of mind he com-

bined courage and action. Today, again, we urgently need, not merely faith in fundamentals, but the will and the courage to make them work in the face of difficulties. . . .

'In your citation tonight you call attention to the renewed confidence of our people in their institutions and in the power of government under law to protect itself from enemies within. I should like to accept the Newman award, not personally, but as a tribute to the thousands of citizens who made that renewed confidence possible by their faith and by their courage. I refer to thousands of grand jurors, petit jurors, business men, and workers who dared to stand up and fight. They fought against deadlier enemies from within than our society had ever known before.'

He bestowed chief credit for the change on the runaway grand jury and its fearless resolution in the face of a threat of death received by one of its members. Out of all the clouds of witnesses he had made use of, he told the men and women of this co-educational university the story of one courageous girl who had given him vital aid in the Luciano case:

'There was a chambermaid in a leading New York hotel. On trial was probably the most vicious gangster who ever dominated the underworld. His co-defendants were eight gunmen and thugs. His defense was that he didn't even know these men, his own henchmen, and that he had never seen any of them in his life. Into the tense atmosphere of that crowded courtroom came Mary Brown. That is the name we called her by because it was not her name. Calmly she told how she had seen one after another of the gang go into the room of the boss for long conferences day after day. She well knew the character of the men on trial. Yet she walked down from that witness stand and put her hand on the shoulder of each one of them. The whole defense collapsed. The courage of Mary Brown and others like her did the job.'

He paid tribute to the brave jurors who sometimes had to be shielded by bodyguards and who made great financial sacrifices in neglect of their business. As a consequence movements to exterminate organized crime were springing up everywhere.

'The people have learned they need no longer tolerate the furtive alliance between the upper and the underworld. In high places it has been learned that clean government can also be good politics.'

He protested that he took no pleasure in prosecution and that punishment is not a cure, but 'only half of the job.' 'No nation was ever made good or strong by laws alone. The pretended strength of government is never a substitute for the real strength of the individual.... Society cannot endure if government is built on a mass of weakened individuals.' He upheld the fundamental truths of religion and decried the worldliness and pragmatism of the times. He called for a return to divine guidance, while emphasizing the right to differences of creed and their expression:

'The world today is not too militant. It is militant in the wrong way and for the wrong purposes. We need — and desperately need — a spiritual militancy.... With unity of purpose we shall carry forward the religious ideals without which no country can remain free. Adhering to our own traditions, we shall preserve them. When we have cleaned our own house, we shall keep it clean.'

He gave another more informal talk to the law students of the university and, remembering his own long, hard, and profitable apprenticeship, advised: 'Don't try to practice law independently for at least two years after you graduate — if you can get a job with a good law firm.'

Not long after receiving the Newman medal from his Catholic admirers, Dewey was honored by the Jews. A New York Civic Center Synagogue had been established in which some of Dewey's aides had assisted. They also had presented the temple with a Holy Scroll of the Hebrew law. On June 27, Rabbi Max Felshin visited Dewey's office and presented him with a miniature Torah, saying:

'You have lifted up your potent voice against outrages to the Holy Scroll of our divine laws, which is the most precious heritage of our people. As a champion of tolerance and justice, and a liberty-loving American, it is fitting that you should receive this Scroll as an eternal remembrance from

the House of Israel for your valiant espousals of the cause of justice, tolerance, and brotherly love.'

On May 31, Dewey made his report to the people on the record of his office for his first year as District Attorney from January 1 to December 31, 1938. No District Attorney had made such an accounting to the people since 1915.

At the end of his first six months in the office, it may be remembered, Dewey had taken stock of the work accomplished and found that all known records had been broken. His achievement for the entire first year had only his own record for the first half-year to compete with. It bettered even that.

In the General Sessions Court his office had disposed of 3253 cases. Even the famous Jerome had convicted only 66 per cent, and Whitman 70 per cent. Crain had made 61 per cent and Dodge 65 per cent, as compared to Dewey's 79 per cent.

#### A RECORD OF BUSINESS DONE

In the first-degree murder cases, his predecessor Dodge had secured two convictions, with six acquittals and twenty-five discharges; Dewey, fourteen convictions with six acquittals and three discharges. In all major forms of felony Dodge had secured 286 convictions with 316 acquittals; Dewey, 328 convictions with 176 acquittals. It is to be remembered that Dodge had specialized in small fry, while Dewey's office, taking routine cases in its stride, had also gone after the big game. In major convictions his record was 65 per cent, compared with Dodge's 48 per cent.

It was one of his strongest beliefs that prisoners had 'the right to a prompt hearing before the grand jury, resulting in exoneration or indictment.' On his entrance into office he had found 382 prisoners in the Tombs, of whom 158 were still awaiting grand jury action. On January 1, 1939, there were 167 fewer persons in the Tombs and only 30 awaiting grand jury action — altogether about one day's grist of crime in the county.

In the Special Sessions Bureau, 14,063 misdemeanor cases

were disposed of with 69 per cent of convictions as opposed to the preceding year when there were 63 per cent of convictions out of 13,742 cases.

In the Indictment Bureau, the number of indictments was lower than in many years because of the use of the joinder indictment and because certain minor offenses, which were technically felonies, had been 'in justice treated as misdemeanors.'

No records had been previously kept of the number of complaints received or of their disposal, but his office had received a total of 6825 written and 7496 oral complaints, all of which were given sympathetic attention. A card record was made in each case.

The statistics of other bureaus showed the same conscientiousness and efficiency: 160,000 persons called at the office: 34,127 letters came in, and 35,094 went out. The number of outgoing telephone calls for the year was 188,089. The process servers attached to the office had served 110,531 subpoenas.

The accounting staff prepared reports in 345 cases after examination of voluminous books and records returned on 2620 subpoenas *duces tecum*.

The Medical Assistant conducted 366 physical and psychiatric examinations. The Civil Engineer conducted surveys and drew diagrams in 162 cases, 142 of them homicides. The Photographer did similar work and also made more than 20,000 photostats in 1600 cases. Four hundred and eighty-one reports were made on parole cases.

'Special attention was given to the study of a number of serious problems related to the administration of justice. Among these were juvenile delinquency, sex offenses, child abandonment, and problems affecting areas of congested population.'

The Volunteer Defenders furnished counsel to indigent defendants and 'prevented the gouging of the penniless.'

This was the mathematical statement of the cold statistics concerning the work of eighty lawyers and one hundred and fifty clerks, stenographers, and others. The spiritual and social achievement was beyond calculation.



## Chapter XXXIII • KUHN, LEPKE— AND OTHERS

AN INTERNATIONAL racket lifted itself now into notice, for even propaganda had taken on the form of criminal organization in the gigantic national campaign conducted by certain leaders of the German Bund movement. Its insolent and defiant Hitlerite, Fritz Kuhn, like so many others, had been using the American reverence for free speech and free press as a cloak for activities in behalf of his master, to whom free speech was a nightmare to be punished with death, concentration camp, or, for the luckier ones, exile.

When, on May 2, 1939, Dewey's office subpoenaed the books of the Bund, its own newspaper, the *Deutsche Weck-rauf und Beobachter* and *The Free American*, gave its own version the next day in scareheads and hammered home its fixed idea that everything American is Semitic:

Jew York Democracy in Action.

Housebreaking and Battery.

District Attorney Dewey Stages a Raid.

Twelve Strong-arm Men seize Papers and Property at Bund Headquarters Without a Search Warrant.

Presidential Aspirant Acts in Disregard of Article IV of the Bill of Rights.

These propagandists for an ideology in which a Bill of Rights could only be a humorous idea did everything but call the District Attorney 'Jewey of Jew York.' They called the President 'Rosenfeld' and denounced La Guardia as a Jew.

Learning of Kuhn's plan to leave the country and return to Germany, the Mayor had his passport held up and asked

Dewey to investigate the Bund for sales-tax irregularities. But Dewey replied that he had been investigating it for some time and was prepared to charge Kuhn with 'substantial felonies.' He was also after 'bigger game.' On May 18, the grand jury called on Kuhn to appear. Announcing his willingness to testify, he came right to the door of the grand jury, but had a sudden change of heart or cooling of the feet. He refused to waive immunity or appear before the jury. Suddenly he started westward, only to be caught in Pennsylvania three hours after Dewey had secured an indictment against him for grand larceny and forgery.

Dewey might have accused Kuhn of high treason against his partially adopted country, but, since the laws of our nation permit freedom of speech and action, the grand jury could merely charge him with stealing from his own Bund, whose books Dewey's staff had been going over. Kuhn waived extradition and returned to New York, where he was arraigned and released on posting five thousand dollars bail. The chief picturesqueness of his activities was the severe strain to which he subjected American tolerance, and the visions he created in the imagination as to what would happen to an American who might go to Naziland and follow Kuhn's example here.

After Dewey had indicted Kuhn, the latter was called before the Dies Committee of Congress. His defiance was in still more ironical contrast with Nazi standards at home. The outbreak of the new World War and the attack on Poland did not enhance Kuhn in public favor and renewed reports that he planned to flee the country for the land of German freedom caused Dewey to ask for the increase of his bail to fifty thousand dollars and he was put in jail. Later, on October 7, 1939, his friends turned over to the court fifty thousand dollars in cash and he was released. His case came to trial on November 9. Dewey regarded it as a routine common theft case and entrusted the prosecution to Assistant District Attorney Herman J. McCarthy. But much to everyone's surprise, the defense in an attempt to support its cry of 'persecution,' called Dewey to the stand as a witness. Asked whether he had 'personal animus'

against Kuhn, Dewey said frankly that he regarded the defendant 'as a nuisance to the community and probably a threat to civil liberties and the proper preservation of the American system if he should become more important than he was.' Dewey said that it was difficult to say that he had hatred for the Bund 'when it is really merely contempt. However, he added, his personal feeling had nothing to do with the Kuhn case and 'if it did I should be removed from office.'

On November 29, at the close of a three-week trial, Kuhn was found guilty on all of the five counts submitted to the jury.

#### MORAN AND TAXICABS

The Rackets Bureau's investigation of the electrical monopoly had reached the stage of indictment a year before, when wealthy contractors were charged with making collusive bids on city and private contracts. Heretofore such cases generally had been handled in the federal courts under the anti-trust laws, and the result usually had been a mere injunction or consent decree.

The contractors were brought to trial now, and nine of the ten wealthy electrical contractors pleaded guilty of conspiracy in restraint of trade. Each of them was fined the maximum of five hundred dollars and given a suspended sentence of three years with a commitment to the court that the practices would never again be revived under penalty of remission to prison for the suspended term.

Racketeering seemed to be almost universal, and on June 16, Fruits joined Electricity when Dewey secured the indictment of Albert Manganaro, secretary-treasurer of a local of the International Brotherhood of Teamsters, Chauffeurs, Stablemen, and Helpers, for extortion in a contract he had forced on thirty-four fruit merchants with the usual threats. He was held in five thousand dollars bail.

During this busy period of 1939, another statesman fell beneath Dewey's axe. This was Edward S. Moran, Jr., who had been an assemblyman from Brooklyn for seven years

until Dewey indicted him just a year before on the charge of accepting bribes in the amount of thirty-six thousand dollars from two large taxicab companies. He was tried now before Judge James Garrett Wallace, of the Court of General Sessions, on six counts: two for accepting bribes; two for accepting fees as a public officer in connection with his legislative duties; and two for official extortion. Moran was charged with receiving bribes in connection with two pieces of legislation, the first affecting the regulation of taxicabs and the second affecting the emergency gasoline tax, which was naturally of great interest to taxicab companies.

Moran had become chairman of a committee of state senators and assemblymen to investigate the taxicab industry. What he first investigated was the willingness of the heads of the taxicab companies to 'get up some money' in exchange for some favorable legislation.

The committee of legislators had appointed a young lawyer to act as its counsel. He testified later that, while he received his salary regularly for seven months, he had never been allowed to do anything to earn it. When he protested, Moran had told him: 'Don't bother me! If you want to work, lick postage stamps.'

It was investigator Moran's custom to show the taxicab companies the legislation that was being proposed and permit them to rewrite it. He was paid twenty thousand dollars in connection with his alleged services on a gasoline tax measure and received five hundred dollars a month, later raised to a thousand dollars a month, from one of the companies for acting as its 'watchdog' in the legislature. One witness testified that Moran was a double-crosser even in his double-dealing, for he had taken a bribe to defeat a bill and then voted for it.

After a ten-day trial, the jury, on June 10, brought in the severest verdict allowed, finding him guilty on the two bribery counts. His lawyer pleaded for mercy, since Moran had come from a poor family, had 'arisen from the sidewalks of New York,' and had worked and studied hard to become a lawyer and a legislator.

But this had been as true also of Dixie Davis and of Hines

and many another malefactor. The judge imposed on Moran a sentence of from two and a half to five years on the first bribery count and suspended the sentence on the other. He denounced the corporation officers for 'the cynical way they had purchased legislation as they would a pack of cigarettes.'

One might find a nice ethical tarradiddle here as to the whole duty of business men wishing to stay in business, but finding themselves at the mercy of legislators who blackmail them with the choice between ruinous laws and illegal bribes. Whether the business men are paying a bribe or a tax, the fact remains that they must often go bankrupt or buy politicians. In any case the judge could not punish the bribers of Moran, since the law gave them immunity for their testimony.

Moran was a lawyer and he joined the increasing company of lawyer criminals whom Dewey had eliminated from the profession. Assistant District Attorney Gurfein, who prosecuted the case, was complimented by Judge Wallace for his 'brilliant trial work.'

In this instance Dewey had not only removed a crooked legislator, but had also investigated an investigator and wrecked him for his malfeasance.

Judge Wallace thanked the Moran jury for doing its duty, but only the day before, in General Sessions, Judge Saul S. Streit had excoriated another jury for finding three attorneys and two brokers not guilty of a grand larceny charge, in spite of 'overwhelming evidence' that they had connived to steal \$700,000 from the Continental Securities Corporation.

The only large work of Dewey's that refused to be completed was the final dissolution of the ancient partnership of Lepke and Gurrah. Gurrah had long been serving time for his lesser offenses, with greater punishment for greater crimes to follow. But Lepke could not be found, though Dewey had a detail of twenty-five of the policemen attached to his office, working for many months on the hunt for him in co-operation with the F.B.I., and the Federal Narcotics Bureau. He had large rewards offered for Lepke by the city.

Lepke, though gone, would not let himself be forgotten. The seventh man connected with his racket, to be murdered

or to disappear in six months, was shot down as he stepped from his home in Brooklyn. This was Morris Diamond, office manager of Local 138 of the International Teamsters' Union. It had been reported that he had 'talked.'

It was common rumor that Lepke was negotiating by long distance on terms of surrender. While waiting for him to come in, Dewey arrested on June 11 three alleged members of the gang, and held them under ten thousand dollars bail each as material witnesses.

Late in the summer of 1939, Dewey cut short his vacation because of a sudden hint that a new clue to Lepke had turned up. One day in the regular business of homicides, the word had come in of a murder that suggested another of Lepke's activities. The slain man, Irving Penn, had no connection with that outlaw or any other, but there were indications that he might have been shot down by mistake for Philip Orlovsky, former Lepkeite whose babbling Lepke feared.

#### THE REWARD FOR LEPKE

Dewey persuaded the city to increase its reward for Lepke to twenty-five thousand dollars. In a move to cut off any funds that Lepke might draw on, he subpoenaed the books of several firms involved in his old rackets to see if they were still making payments to him. He called in for questioning everybody who might throw any light on the fugitive, and arrested eight former aides of Lepke's, holding them in high bail. The city printed one million circulars carrying Lepke's picture and identification marks. Fifty of the city police were assigned to the one task of finding the gangster.

Dewey appeared in the newsreels, and asked the public to help find the criminal. Portraits and measurements of Lepke were also thrown on the screen.

This was another new thing that Dewey had contributed to the war on crime. It was a striking demonstration of modern methods of pursuit. What could be more shattering to a poor murderer's nerves than to seek solace and concealment in a dark motion-picture theater only to see himself jump

out at himself from the screen? And realize, too, that nearly every human being in the nation is seeing his portrait dramatized?

This was a new form of 'beating the thicket for game,' and the novelty in cinematic chases scared Lepke out of cover.

The federal authorities suddenly took a new interest in Lepke under the command of Attorney General Murphy. Yet, as the New York *Herald Tribune* pointed out in an editorial on August 4, the greater interest and the original interest in the case was Dewey's. And many people shared the *Tribune's* suspicion that the Attorney General's sudden zest for an old offender had been stimulated by a wish to claim a place in the sunlight which Dewey had almost monopolized as the first greatly successful prosecutor of the large racketeers.

The federal grievances against Lepke could not compare with the charges Dewey held over his head, nor could the federal laws inflict comparable punishment. That fact must have had its effect on Lepke, because, when he finally surrendered on August 25, it was not to any New York officer, but to the F.B.I. by way of the columnist Walter Winchell, with whom he had cautiously communicated. Disguised by added flesh and a heavy mustache Lepke walked past the F.B.I. men and, stepping into Winchell's car, asked to be taken as a passenger to the presence of J. Edgar Hoover, who was waiting for him.

It was to the federal authorities that Gurrah also had surrendered, preferring not to flirt with the more dangerous Dewey.

Whether or not there is merit in the suspicion that there was rivalry in the suddenly revived interest of the Federal Department of Justice, it is all for the best. If there must be jealousy, it is refreshing to see it exercised in emulation to capture and punish criminals instead of, as all too often, in vying for their favors and their funds, and hastening to release them with apologies and whiskbrooms when unkind policemen arrest them.

The humblest as well as the highest came within the pur-

view of Dewey's offensive and defensive duties as he saw them. One form of homicide that had long been denounced but never punished was the maintenance of fire traps. Our American record for fire losses is as shameful as our supremacy in homicide.

Up to 1902 there had been no insistence in New York upon fireproof construction. The Multiple Dwelling Law of that year made this compulsory, but could not, of course, get rid of the enormous number of buildings already in existence. State laws were passed in 1934, however, compelling the installation of fire escapes and the fireproofing as far as possible of stairways and halls. This rule was as rigidly obeyed as is usual with our law-evading people, and from sixty to eighty people were burned to death annually as a sacrifice to the independence of landlords.

The New York Fire Department is so generously distributed that any building can be reached from a firehouse in a maximum of two and a half minutes after the alarm comes in. But in those old buildings the flames can climb from street level to roof in from three to five minutes, and the hot air and smoke are themselves fatal.

Constant effort had been made to force owners to tear out wooden stairways and put in iron, and to insert fire-retarding materials in the hallways. The legislature had passed drastic laws to punish those who did not look to the safety of the 'old-law tenements' built before 1902. It is estimated that there are now approximately two million people in New York living in sixty thousand old-law buildings. From eight hundred thousand to a million go to bed every night in fire-traps.

Yet in all that thirty-seven years no owner had ever been prosecuted for such criminal neglect, though the laws had provided that mere failure to comply with the requirements was a misdemeanor, while if one life were lost in a fire the owner was guilty of manslaughter.

On June 4, 1938, an elderly man and wife were burned to death in an early-morning blaze, and Dewey, without making any public announcement, set his Homicide Bureau to working on a case against the landlord. On September 21,



1938, the three owners of the building were indicted for first-degree manslaughter. Prolonged extradition proceedings in bringing one of them back caused a delay in the trial.

In another fire, three women and one man were burned to death, and Dewey's office had the owner indicted on February 3, 1939, for manslaughter in the first degree.

Late in June, 1939, a sixty-year-old building in Doyer Street caught fire. It was not authorized for residence, but had been so used for nine years. It burned so rapidly that seven poor Chinese were smothered before they could get out of their beds and were incinerated with them. The photographs of those charred bodies are not pretty and it is not pleasant to realize that the expenditure of a thousand dollars to 'fire-retard' that building would have localized the flames and held them long enough for the fire department to rescue the inmates and extinguish the flames. The owners of this building were indicted in November.

These are the first criminal actions ever pressed against negligent owners of tenement firetraps. Dewey's punitive work has had a result that justifies it: a tremendous effort has since been made by countless landlords to make their buildings comply with the laws.

### 'DEWEY'S INDICTMENTS'

There is apparently hardly any phase or problem of human existence that does not come into the province of a District Attorney. And Dewey was the head of the busiest office of its kind in the world.

Yet enforcing the law was only one phase of a career that includes reforming, rewriting, and, in a sense, creating law. Mention has been made of some of his innovations. In others he had a great if silent influence.

New York attorneys give the name, the 'Bible of the Criminal Courts,' to an annual called *Gilbert's Criminal Code and Penal Law*. The edition for 1939 added on the back of the volume, as on the title-page, the words, 'Dewey's Indictments.'

When he took office in 1938, the old, redundant verbose

legal forms were still in use. Under his supervision, Stanley H. Fuld, Chief of the Indictment Bureau, later Chief of the Appeals Bureau, revised the obsolete structure and simplified the language to easily understood phrases. Copies of the so-called 'Dewey Indictments' were sent to all the District Attorneys of the State and have come into growing favor. The reviser who can make one plain word serve where half a dozen synonyms flowered before has done the profession a permanent service. The Dewey Indictments are more than a hundred in number, and cover every crime in penal law.

In an article entitled 'Streamlining the Indictment,' the *Harvard Law Review* for November, 1939, commented: 'Although less spectacular than its successful drives against organized crime, the recent revision and simplification of its indictments by the District Attorney's office in New York County promises to be a significant step toward a more rational criminal procedure.'

The streamlined indictments in use by Dewey's office have a natural interest and value to other prosecuting officers, since they have proved their effectiveness to an unequaled extent. They do not pretend to have cured crime; but they have certainly secured criminals.

The number of underworld personages Dewey has convicted and imprisoned or driven into exile is unparalleled. It includes many of the worst gangsters that ever made life and property unsafe for a modern community. His record is unapproached in the number of organized rackets destroyed, many of them combinations of both employers and employees under the humiliating and ruinous tyranny of ruthless thugs. Their power was growing so rapidly that the future of democratic equalities was growing dark.

The extortions and plunder from which he saved his city and its people are incalculably enormous. Far more precious is his rescue of business men and laborers from their groveling, their craven submission to outlaws working in collusion with sworn enforcers of the law.

Most startling of all has been the fact that, unlike his predecessors, Dewey did not boast of the petty offenders he

jailed, but spared them or used them in his attack on the best-entrenched, most powerful figures. Wholly aside from his major work in crushing organized crime and imprisonment of its greatest leaders, one might note the following figures he has exposed, driven from public life, or jailed: (1) James J. McCormick, Tammany district leader; (2) James J. Quinlivan, corrupt vice officer; (3) Judge Kunstler, disbenched and disbarred; (4) Albert Marinelli, Tammany boss, forced out of office as county clerk; (5) Charles Schneider, Assistant Attorney General and Tammany leader, driven into private life; (6) Assemblyman Edward S. Moran, Jr., bribe acceptor; (7) Motor Vehicle Commissioner Harnett, indicted, forced to retire, but untried because he was committed to an institution for the insane; (8) State Senator Berg, accused of larcenies; (9) Edward J. Flynn, Democratic National Committeeman, not reappointed as Secretary of State; (10) Hines, Tammany leader; (11) Magistrate Capshaw, relieved of duty on account of Hines revelations; (12) Richard Whitney, former president of the New York Stock Exchange; (13) Judge Manton; (14) Fritz Kuhn.

An intangible and, in a double sense, inestimable contribution of Dewey's has been the example he has set to other communities. By developing the extraordinary technique of his deliberate and thorough preparation, by the extraordinary velocity of his attacks, he has shown the way for other prosecutors to redeem their own communities. To the small criminals and big criminals Dewey has directly destroyed should be added many of those destroyed in other states as a result of his success and his methods.

He has, therefore, been recognized almost from the first as not merely a local figure, but one of national interest and national influence. As has been noted, his loss of the governorship strangely enhanced his standing as a candidate for the Presidency. In the meanwhile, he revealed in his own state much more than the power of a District Attorney; for, though personally defeated, his party swept along in the tide of his enormous vote, and captured both houses of the State Legislature.

In spite of that — or because of it — the legislative ses-

sion of 1939 was remarkably harmonious and in many ways the most successful in twenty years. As the logical head of his party in the state, Dewey made no parade of power, yet exerted his immense prestige, political experience, and good counsel in pacifying and reconciling warring factions, urging the wisest measures, and giving the best wisdom of his splendid lawyership.

During the campaign, when Lehman had declared that his budget was balanced and Dewey had questioned his bookkeeping, the Governor had accused Dewey of ignorance and incompetence. Two months after his re-election, Lehman had to admit that his budget was so badly off balance that there was a grave deficit.

He submitted a 1939-40 budget of about \$411,000,000 and estimated the deficit at more than \$33,000,000. He also called for an appropriation involving new taxes of \$64,000,000, a part of which was necessary for relief and general expenses because the revenues had been diminished by the deepening recession.

The Republican majority in the legislature set resolutely to work on the extraordinarily difficult task of saving the public from any unnecessary increase of taxes; and achieved a greater reduction in expenses than any other state in the nation. Without impairing relief or any other essential service, they cut \$25,000,000 off the budget.

This economy was so little welcome to the Governor that he declared part of the reduction unconstitutional. There were many Republicans also who felt that the form was inappropriate, though the substance was right. The matter was taken to the courts and the Court of Appeals voided part of the law, whereupon the Governor recalled the legislature and demanded the restoration of his original budget. Instead, the Republicans revised and repassed the bill in constitutional form; and so saved the people the \$25,000,000 after all.

In all this, Dewey's influence and advice were invaluable, and he demonstrated statesmanship without claiming it.

## Chapter XXXIV • A TRIP TO OWOSSO

THE County of New York gives its servants a month's vacation each year. In July, 1939, Dewey made his first attempt at a genuine outing, after a prolonged tour of duty day and night under incessant excitements and a variety of drudgeries that would have wrecked a more domitable will and a less robust constitution.

For the second summer he had rented an old farm near Pawling, something less than a hundred miles north of New York City by motor, but a hundred years away for peace and solitude. One might almost be back in the days when Revolutionary soldiers camped on near-by Quaker Hill, named for the old church of the Friends, which is still standing there. On a high hill among high hills the old white house commands a scene of noble beauty. Off to the west the hills sweep up to the top of the Palisades at whose feet the Hudson flows unseen from here. The farm, which Dewey loved at first sight and later acquired, is a real farm, an old farm with big barns and silos, plowed fields, pastures, and venerable trees.

Dewey is very fond of sailboating and during his July outing he slipped away for a week's cruise along the Maine and Massachusetts coast. Though he kept in touch with his office by daily telephoning, he was forced to break off his cruise and return to New York in an official emergency that arose. When that was settled, he felt that he had earned the right and the time to finish his vacation with his annual visit to his mother.

So he went back to Owosso for a few days' rest. In order to avoid the embarrassment of a formal reception, he asked

his mother to meet him in Detroit and drive him home in her car. And so he returned to Owosso as quietly as he had gone away the first time. He visited the farm where he had worked as a boy. He tried to avoid speechmaking, but on the insistence of the president of the Owosso Improvement Association, Don Mitchell, he made one address. Thousands of his townspeople filled the Owosso stadium that night.

Following a glowing eulogy by Judge Joseph E. Collins, Dewey began in homely intimacy:

'Judge Collins, neighbors and friends, former playmates who taught me to use my fists, former teachers who tried to get me to study, business men who tried to get me to work, it is a joy to me to see in this gathering so many persons who taught so many things to one small boy.'

After many other neighborly allusions, he struck a more serious note in his peroration, which was suggested by what he had heard over the radio earlier in the evening concerning the war-clouds about to break over a doomed Europe. He said:

'In America we watch with dismay and still with hope what is happening in Europe. We who came here to leave behind us the hates and fears of the Old World, may still hope that it shall not sink into conflict which will destroy it.

'Let us join in praying tonight that men shall not be sent to kill in the fruitless struggle for power — that nations shall not be plunged into the despair of a struggle in which no one can win; and most of all that we in America shall keep clear minds and gentle hearts so that we may preserve here for all the world the tradition of a free republic and a free people.'

After the meeting and a great handshaking with the proud and affectionate throng, he returned to his mother's house.

It is the very perfection of a busy public life when a man can go back to his native town, where everybody has known him and watched him from his childhood; and take back with him a record of accomplishments. There is no community in the world where individual independence is better

established than in a small American town, and no community whose criticism is more personal and vigilant. Dewey came back from the big city in the fame of achievement. His success had been won in the country's chief metropolis, but his work there had made life cleaner and more secure for every man, woman, and child in America.

He had excited the grateful and affectionate interest of young and old. The very children knew him for the modern figure of their beloved Indian fighters, and knew that he had fought savages of as much stealth and ruthlessness as ever roved the wilderness. The women in the homes, the multitudes of women in offices and factories and on the farms, and the men of every age, trade, and profession recognized that his fight was their fight and that he was a square-shooter who fought to win, and won.

The universities had seen in him an historic figure of historic dignity, and one after another had voted him the laurels of their honorary degrees. The latest was Dartmouth College, which, on June 18, 1939, gave him a citation including these stout words:

'As has been true of so large a proportion of men of outstanding public service, you, too, sprang from a small-town environment whence you have projected yourself to dramatic pre-eminence in the world's largest metropolis through conspicuous mastery of what had been previously organized crime. . . .

'Devoted in spirit to the rebirth of ideals in the administration of justice, in hardly more than a decade you have made yourself influential in turning the tide of public cynicism and reviving the ancient concept of justice as a flaming sword.'

No country has ever had more reason for boasting of its glories than ours; no people has ever had more freedom. But there has always been one source of bewildering shame; and that is our record for crime and an alliance between crime and politics so strong and deep-rooted that no one has ever broken it for long.

In cleansing politics of crime Dewey has lived nine years

of high statesmanship. He has had no rival in his unique combination of power to work long and hard in organizing and directing research for overwhelming evidence, and then striking like a thunderbolt with almost infallible accuracy and power. Any problem that confronted him was sure to be studied till he mastered it; when he acted there was likely to be an end of that problem.

What his future may hold for him it is not the business of this record of his past to guess. High as his destiny may call him, it will not find him unprepared or undeserving. It will find him unafraid.

One part of what he has called his 'social philosophy' should always be kept in mind as explaining and illuminating the high purposes of his career. He voiced it in his speech of November 4, 1938, already quoted in part: Before there was government on this earth there was man, the individual depending for his livelihood, his family's safety and property on his own energies and theirs. Government arose later, in order that many families might unite and by surrendering little freedoms make the great freedoms safe. In time the governments themselves became the greatest danger to those individual rights, and civilized history has been one long battle to keep a man's own government or a hostile government from destroying his freedom.

That war has never raged more furiously than in our own day when totalitarian governments abroad are savagely struggling to minimize the individual's liberty, and certain gentle idealists at home are attempting the same thing by methods perhaps more dangerous because they are more insidious and because they stealthily disarm the individual 'for his own good.'

The framework of our government is well established. It permits and encourages the freedom, the industry, and the happiness of all, rich and poor, strong and weak, so long as they respect the rights of one another and keep within that frame. And therein lies the splendor of Dewey's lifework. He has used the laws of the government for their original purposes, to restore and safeguard the lives and liberties of all the citizens.



In his own words:

'The duty of government to respond to man's need continues and shall continue. We must never forget the most important function of government — to preserve by orderly, well-considered processes the rights and dignity of the individual.

'Many of these rights are still denied to our people. For these we must maintain our vigilance. First among them is the right to freedom.'

## Chapter XXXV · FOREWARNINGS OF WAR

RESILIENCE has always been one of Dewey's most remarkable qualities. In the course of a career of high achievement and spectacular success, he has encountered failures and defeats that would have quenched hope and ambition in men of feebler and less elastic steel. But from every disaster he has rebounded with renewed and increased energy.

When the case against Hines was thrown out of court, Dewey went right back into the battle and won it. Few prophets would have ventured to predict that his loss of the election for governor would serve, not as the finish of a promising young politician, but as a springboard for later and greater triumphs. His fellow-Republicans always saw in him a positive genius for vote-getting though he never stooped to cheap trickery or truckling.

In the campaign for the governorship of New York in 1938, the largely Communistic and altogether radical American Labor Party had delivered to Governor Lehmann a total of 400,000 votes, yet he had beaten Dewey by only 64,000. This near-victory was hailed as actually a triumph, and Dewey was immediately accepted as the one man most worthy of nomination for the Presidency in the election of 1940. But Dewey accepted the rebuff as a detail in his life's work, and returned to his office in Center Street to take up his task as District Attorney of New York County, though he did not relax his interest in national problems, and his influence was national in the whole political field.

The horizon of our country was already lurid with the blazing war in Europe, and every American was wondering if

it would engulf us again. Subsequent events have led many people to pretend to views that almost nobody held at that time, and to a foresight that was repaired afterwards with all the benefits of hindsight.

Like everybody else, Dewey hoped that our country might be spared a second baptism in blood; but there were few more convinced than he that our only hope of escape from Hitler's all-encompassing hatreds, and our only hope of victory, if entrapped, lay in the immediate building up of our powers of defense and offense. To this belief he now devoted all his eloquence.

The man and his views are both presented in his book, *The Case Against the New Deal*, published in the fall of 1940 and made up of speeches he delivered between the latter part of the year 1939 and the mid-year of 1940. These are masterpieces of reasoning, of patriotic fire, and of high and noble eloquence.

Dewey's voice was raised against the plausible and gradual undermining of American principles and ideals that marked in his eyes the ever-growing power of the New Deal. He feared its progress at home as much as he feared the threat to our institutions from the war abroad. And he never ceased to cry aloud against both menaces, the domestic and the foreign.

Our belated successes in World War II, following the opening disaster at Pearl Harbor that forced it upon us, have been used by the Administration as a golden screen for the more dismal facts. The Administration and its devotees have pretended to all-wise prescience. They claim to have foreseen the war clearly and to have made ready for it in spite of the opposition of the 'isolationists'; among whom they try to include Dewey, though he was one of the fiercest critics of their failure to make ready, and though the New Deal was lavish in guarantees to remain isolated. In fact, in 1932 Mr. Roosevelt, as Governor of New York, was writing to President Hoover his most cordial approval of those very plans looking toward disarmament for which he has since so often expressed such withering scorn.

As for the Administration's chief pretense to the further-

ing of international peace and brotherhood, Dewey said in a radio address on June 21, 1940:

In 1933, it was the President himself who wrecked the London Economic Conference. That was the final effort of the nations of the world to establish a world economic order which would have done much to stay the growth of the Nazi power. That Conference was deliberately torpedoed because Mr. Roosevelt suddenly realized that he could not carry out his plans for the vivisection of America's economy unless he isolated it from the rest of the world.

That act of isolationism led straight to the international disaster which we face today. Yet Mr. Roosevelt now, with magnificent inconsistency, heaps scorn upon those he chooses to label 'isolationists' . . . It is not those whom the President miscalls isolationists in 1940 who are responsible for the present crisis. Franklin Roosevelt, the isolationist of 1933, stands out among those whose shortsightedness contributed to that crisis.

In the preface to his book, published more than a year before Pearl Harbor, Dewey said:

The New Deal has stubbornly pursued policies based upon the theory that our economic system has lost the power to sustain itself and must be artificially supported by government. It has failed, year after year, to solve our pressing problems of large-scale unemployment and business stagnation. It has shown a persistent incompetence in administration. It has not scrupled to use the funds entrusted to it for the relief of the needy in order to strengthen and perpetuate its own political power. Finally, it has neglected our national defenses in a time of great danger.

In recent months we have seen all too vividly abroad the fate of nations which left their destiny too long in the hands of governments that were more concerned with social experimentation than with national safety.

In a radio address on January 21, 1940, Dewey found in his very explanation of the European war a resemblance to our own conditions and hence a menace that we also might be drawn into the conflict. He said:

What is the central explanation of this extraordinary web of tragedy in which men find themselves entangled against

their will? In Europe, at least, I think it is to be found in two basic causes. First: the economic dislocations resulting from the great war and from the errors of post-war diplomacy. Men were driven to despair by the intolerable debts, by ever-increasing taxes, and by vast unemployment which seemed to be permanent. In the face of these conditions some governments seemed to be helpless. And so it was that their people were led blindly to entrust their fate to leaders who promised that in exchange for their freedom, they would be given the security for which they longed.

The second basic cause is that such leaders of men betrayed their trust. They abandoned the standards of integrity and fair dealing, which apply to governments as well as to individuals. We are witnessing today the consequences of a breakdown in the integrity of government.

In totalitarian nations, men have come to power who have systematically broken their word . . . They promised peace and jobs. They promised these things if only the people would give up their right to a voice in the affairs of government — if only they would give up their civil liberties — their rights to free speech, to free press, to religious freedom and freedom of thought.

In a speech on May 7, 1940, at Dallas, Texas, Dewey said:

The ugly facts are that the United States is not even prepared to defend itself against attack in its own territory, let alone to wage war abroad.

He described our situation after seven years of Roosevelt's administration:

We have a good fleet — in the Pacific Ocean. Our Atlantic seaboard is protected by a 'shadow' fleet headed by three old battleships in need of modernization. The whole Navy is handicapped by aged and slow auxiliary ships.

Our Army has only 75,000 fully equipped troops ready to take the field. We have not a single complete mobile division of infantry and artillery which could be rushed to a point of attack.

The Army has on hand only 38,000 modern infantry rifles. It needs more than 240,000 for its present plans alone. It has only 14 per cent of its anti-tank gun requirements. It has less than 2 per cent of the light tanks and less than 10 per cent of

the medium tanks that it needs. . . . We have less than 2 per cent of what the Army requires in anti-aircraft ammunition.

Our whole Army Air Force includes only 863 combat planes — a week's toll in the battles of Europe. Major General H. H. Arnold, Chief of the Army Air Corps, testified before a Senate Committee this month that the Army has only 52 first-class heavy bombers. He further testified that if our twin-motor bombers were sent against modern equipment, 'it would be suicide.' And when he was asked how many of the Army's 2,700 planes could be modernized, he said: 'Offhand, I should say half a dozen.' None of the Army planes has armor, self-sealing fuel tanks or sufficiently heavy firing equipment . . .

In the National Guard there is only one gas mask to every eight men. . . . We are dependent upon foreign countries for twenty-three materials essential to our national defense.

He spoke of the seven-year war waged by the Administration against the vital and productive industries and the staggering increase of the national debt. In spite of 'the largest peacetime expenditure for defense in any seven years of our history, our national defenses are totally inadequate.'

He went on to describe the President's call for an air force of 50,000 planes. A hundred airplane manufacturers were called to Washington and 'went back to their plants in complete bewilderment.'

This country wants planes — plenty of planes — and it wants them as fast as it can get them without interfering with the delivery of planes to the Allies. In fact, our effort should be to help speed those planes to the Allies.

He went on to describe what would be necessary to lift our production from its rate of 6,000 a year to 50,000 a year, as well as the necessary air force of 750,000 men. His estimates have been proved true, though pooh-poohed at the time.

He was able to say what was then the bitter truth, long since obscured and forgotten:

Every man in America who understands these great industrial problems has been driven out of the councils of our government. So the President takes personal charge of this

job in addition to his manifold other duties. He permits the Secretary of the Treasury, who knows nothing whatsoever about the subject, in addition to his own large duties, to take personal charge of all defense outlays and, incidentally, to coordinate the vital machine-tool industry . . .

This national emergency cries aloud for experts to take complete charge of this program. America has the greatest engineering and mass production administrators in the world. In Heaven's name let us put this program in their hands. Let us do it before it is too late.

He reviewed the various bungling steps taken by the Administration under the sway of its Socialists, Communists, and fellow-travellers. He called for a cessation of the Administration's 'war on business.' He appealed for the release of the great minds of experienced organizers so that they might hasten to our defense.

When, at last, this step was taken under the compulsion of the Japanese attack and the German declaration of war, great things began to be done.

It is outrageous that the open and conspicuous demands of men like Dewey should be slandered as opposition to preparedness. He was denouncing the inefficiency of those in power and appealing for the calling in of experts who later saved us at a time when the Administration was hugging its 'social gains' and preparing the way for the stark tragedies of Pearl Harbor, Bataan and Corregidor, and the slow agonies of Guadalcanal and the jungles of the South Pacific.

Dewey excoriated the President for putting industrial mobilization into the hands of men like the then Secretary of Commerce, Harry Hopkins:

The greatest industrial effort in our history entrusted to a man who had had no industrial experience whatever! Worse than that, a man who had been for seven years a leader of the New Deal war on industry!

He tore apart the President's statistics as to the state of defense, particularly that tricky phrase, 'On order.'

In an address at Charleston, West Virginia, June 7, 1940, Dewey said:

On May 26th . . . in a fireside chat . . . the President said: 'Since 1933 we have actually purchased 5,640 airplanes' for the Army. The truth is that the Army today has only 2,794 planes, of which only 863 are combat ships. And none of these planes measures up to the standards of present combat requirements. None of them has armor. None of them has self-sealing fuel tanks. And none of them has sufficiently heavy firing equipment. Yet these are the planes in which our fliers may be asked to go to meet a hostile invasion. Why did not the President tell us that?

The President went on to say that 'we now have more than 1,700 modern anti-aircraft guns of all types on hand and on order.' Note the words 'on order.' The facts are that of the anti-aircraft guns actually on hand 1,014 are 50-caliber machine guns — guns which offer little ground defense against modern armored planes. We have 60 modern 90-millimeter anti-aircraft guns on order. Not one of them is on hand. Why did not the President tell us that?

At a time when the country wanted to hear the cold truth about our military preparedness, it received from its President only deceptive statements about equipment 'on hand and on order.' Equipment 'on order' is no equipment. An anti-aircraft gun 'on order' will not bring down a bombing-plane an enemy has 'on hand' . . .

Our military equipment is desperately inadequate.

Dewey described the final capitulation of the Administration to the frightful emergency and the reluctant and procrastinating summons of experts. Even they were hampered and hamstrung by the politically-minded advisers who surround the President.

Dewey denounced the Administration's readiness to 'return to partisan politics at the slightest opportunity.' He summoned the nation, men of all parties, to unite in defense and keep up 'unceasing alertness.'

Again and again he called aloud for preparedness against the gathering storm. He gave the facts and the figures about the inadequacy of our equipment and the incompetence of our government for the salvation of the country.

'If the Democratic Party can't be frank with the people, the Republican Party can. . . . The problems of this country



are greater than any man alive in either the Democratic or the Republican Party. They can be solved only by bringing to the government the ablest men in the country.

On June 17, 1939, at Burlington, Vermont, Dewey quoted the words of the then Secretary of War Woodring:

Under the inspired leadership of our far-seeing Commander-in-Chief, there has been reborn an army that constitutes a potent and effective element in our defense.

He contradicted such complacencies with the true state of appalling helplessness.

Dewey warned the people not to trust the bureaucrats. He spoke from his own close knowledge of evil men:

We as a nation must face a bitter truth. This has become a gangster world. I know something about gangsters. I know that soft-minded men and guns 'on order' are no help against them. I know that tough-minded men and adequate weapons are the only defense which they respect.

There must be preserved in this hemisphere a safe haven for the ideas and ideals painfully wrought through the centuries. We must prepare ourselves at any cost to preserve our own homeland of liberty. The menace of total war requires total defense.

There is something intolerable about the effort of his opponents to picture Dewey as an isolationist indifferent to war-measures when his voice was crying aloud in the wilderness such warnings.

It is good politics to claim everything, particularly the successes into which the opposition drove the party and cooperated with it. It is good politics to deny the opposition any share in the success in which it cooperated.

But it is bad history to let the politicians get away with such fables.

In this greatest of wars, in which our nation has achieved such mighty unity, it is particularly bad history of the past and bad teaching for the future to present our war-effort as the work of one indispensable, infallible genius inspired in all his undertakings and never wrong.

## Chapter XXXVI • DENUNCIATION OF THE NEW DEAL

A SINGULAR consistency has marked Dewey's life-story. Politicians are expected to trim their sails to the winds and change their policies to suit the whims and moods of the voters at the next election.

The present Administration is famous for abandoning its platforms almost as fast as they were built and its promises almost before the echoes have ceased to reverberate.

Dewey has stuck to basic principles and has lost battles thereby. But it is the last battle that wins the war, and a lost battle may serve a better purpose than a temporary and perhaps misleading victory. Many defeats have marked Dewey's progress, but all of them seem to have strengthened him.

His speeches in late 1939 and early 1940 were vigorous and telling assaults not only on New Deal neglect of defense, but also on its war against industry and its fantastic economic aberrations. The Administration's final abandonment of its early theories and eventually of the New Deal itself must have been at least partly the result of Dewey's furious and eloquent assaults on its very foundations.

He assailed particularly the New Deal's defeatist philosophy, which was very convincing pessimism to a nation agonizing through a long depression. But the great public was utterly ignorant of the fact that similar depressions had marked our history from the start, and had always followed wars and booms. The so-called 'Hoover Depression' was deeper and more dire than our earlier depressions simply because we had a larger population and a vastly greater wealth

to squander. Furthermore, the World War produced a world depression.

The New Deal philosophy succeeded so well at the time that vast numbers of its dupes still openly maintain there will never be another depression, in spite of the fact that the depression had never really been conquered and a deeper depression had started just before the second World War produced the usual boom by way of war industries.

The peculiar 'philosophy' administered by the New Deal to the discouraged, disheartened Americans was first the Roosevelt promise in 1932 that he would begin with 'a saving of not less than 25 per cent in the cost of Federal Government. . . . That I pledge, and nothing I have said in this campaign transcends in importance this covenant with the taxpayers of this country.'

Of this Dewey said at St. Louis, March 23, 1940:

That was not a temporary breach of faith. It was merely the beginning of a continuing breach of faith.

Again in 1937 the President promised, 'We will balance that budget. You needn't worry.' In 1939 he said that if we tried to balance the budget 'we would invite disaster.'

Of these and other shattered pledges, Dewey said:

The erosion of character in this Administration began within six weeks after it took office. It has continued ever since, wearing away the foundations of governmental integrity.

The whole philosophy of the early New Deal was repugnant to Dewey's fierce American zest of life and his fighting spirit: for the New Deal's philosophy, at least its first philosophy, was, as President Roosevelt said in San Francisco in 1932 during his first campaign:

Our industrial plant is built. The problem just now is whether under existing conditions it is not overbuilt. A mere building of more industrial plants . . . is as likely to be a danger as a help.

In Minneapolis on December 6, 1939, Dewey made an eloquent attack on this whole concept. He cried:

The one ultimate unforgivable crime is to despair of the Republic. The one essential to the survival of the Republic is to know it will survive, and will survive into a future that is always larger, always better.

After seven years of power, the New Deal's Temporary National Economic Committee reported:

The American Economic machine is stalled in dead center.

By a curious paradox, the New Deal, despairing of the further growth of our industrial plant, preaching that we had reached a 'mature economy' and passed the last and final frontier, advocated and practiced reckless spending, unlimited debt, unbalanced budgets, spending the country rich, creating wealth by debt.

Dewey, believing in an infinite future for the Republic, believed and practiced the strictest economy. In a speech, *Who Pays for the New Deal?* delivered in Boston, June 23, 1940, he described how he, as District Attorney of New York County, had cut the annual cost of public prosecution from \$1,150,000 to \$886,000 the first year and to \$829,000 the second year — in spite of an enormous increase in efficiency and unparalleled success.

It is too late now to comment on the vast growth of our national debt before the war and since; but at every step Dewey fought it with statistics, facts, denunciation and ridicule. He called the New Deal fantasies 'zigzags to nowhere.'

The historian of the future, or the curious reader of the present, can find this damning evidence brilliantly marshalled and presented in the collection of Dewey's speeches for 1939 and 1940.

With all his unsurpassed skill as a great lawyer preparing a case against a powerful, well-entrenched and ruthless despoiler of the public, Dewey indicted and prosecuted the case of the *People v. the New Deal*.

And he might have won a verdict of Guilty in his impeachment trial if suddenly, almost overnight, another attorney had not been substituted. Dewey took the blow as bravely and resolutely as he had taken the first dismissal of the Hines

case. But the New Deal gained another four years of life.

World War II covered up many of its ugliest failures and distracted public attention from domestic to foreign enemies. The war convinced everybody that gigantic spending was necessary and blinded the public temporarily to the ghastly truth that, whereas we entered World War I with a national debt of only one billion dollars and ended it with a debt of 27 billions, we entered World War II with a debt of 43 billions and we have a promise of a debt of 300 billions before it is ended.

Remembering the perilous situation of our country as it was in 1940, it is of interest to see by what strange and devious circumstances Dewey was thrust aside from his commanding position as leader of the opposition, and the control taken over by a new and unforeseen figure.

## Chapter XXXVII • THE 1940 PRESIDENTIAL CAMPAIGN

ACCORDING to a Gallup poll taken early in 1940, Dewey was so markedly the Republican favorite for the Presidential nomination that he had 56 per cent of the total vote of all the candidates. He was consequently in immense demand as a speaker and travelled from coast to coast, awakening enthusiasm everywhere.

In eleven and a half days in February he covered 7,500 miles, appeared on the train-platform at 48 Western stations, made 36 impromptu speeches at stations, and 10 formal addresses; and shook hands with 15,000 voters. His chief message was a denial of the 'mature economy' and frontierless poverty of the American hope.

At Miles City, Montana, he mocked the New Deal with, 'History laughs, as the dynamic forces of a free Republic have given the lie to the defeatists.' In Idaho he said: 'I don't say to you, "Close your eyes and have faith." I say to you, "Open your eyes and look around you, and be convinced."'

In April, Dewey made another tour, speaking in St. Louis, Chicago, Milwaukee, and Madison, Wisconsin. In Milwaukee he renewed his assaults on the New Deal's defeatism and its evil influence on the country when, after seven years and the expenditure of \$17,500 a minute, ten million men were employed, the budget was still unbalanced, and agriculture had been sold down the river.

As the primaries were held in various states, Dewey began to pile up impressive totals. Democratic optimism dwindled. In May, Dewey still led the field in pledged delegates with Senator Taft next.

Early in June, Wendell Willkie began to loom larger and larger above the horizon. A group of non-professional enthusiasts had caught him up in a whirlwind campaign. He had magnetism, a brilliant mind and a winning smile. His popularity was one of those prairie fires of enthusiasm that occasionally break out and sweep our country. There was a perverse rush toward him because he had so much against him: he was a utility magnate; he had been a registered Democrat and voted for Roosevelt in 1932. But he had turned against the New Deal and, in well-written articles and speeches, called it the opposite of liberal — as reactionary as the Communism with which it shared a belief in governmental power.

'Willkie-for-President' clubs began to spring up all over the country. On his first appearance in the Gallup polls, he had only 3 per cent to Dewey's 67 per cent, Senator Vandenberg's 14 per cent and Senator Taft's 12 per cent. The next poll gave Willkie second place. Soon 50,000 workers were distributing Willkie buttons. A volunteer mailing committee sent out 475,000 pieces of Willkie campaign literature.

Dewey was an old story to the fickle public. He had begun his campaign too early, had been the favorite too long. He had been what horse-racers call a front-runner. Willkie came up from behind. He was something new to the jaded voters. So little was known of him that everybody could imagine in him any qualities desired.

The Republican Convention opening in Philadelphia was the twenty-second. The keynote speech was made by the thirty-three-year-old Governor of Minnesota, Harold Stassen. The chief address was allotted to Herbert Hoover. But Willkie men and women were everywhere like an invading army. The air was saturated with cries of 'We want Willkie!'

When the nominations were opened, the prominent New York lawyer, John Lord O'Brian, in a long speech reciting his achievements, put Dewey's name before the convention. Representative James W. Wadsworth nominated Frank Gannett. Grove Patterson nominated Senator Taft. Then Representative Charles Halleck of Indiana, in a speech al-

most more startling for its brevity than its vigor, gave Willkie's name to the multitude. The parade of his supporters on the floor was small, but the galleries took over with a tremendous din. The convention adjourned to another day and more nominations, including those of Senators Vandenberg and Charles McNary of Oregon.

Voting began in the late afternoon. The first state to vote, Alabama, gave 7 votes to Dewey, 6 to Taft. New Jersey's 32 votes had been promised to Dewey, but 12 slipped away to Willkie. The first ballot read: Dewey 360, Taft 189, Willkie 105, Vandenberg 76, James 74, Martin 44, Gannett 35, MacNider 34, Hoover 17.

The multitude of candidates was in striking contrast with the situation in the Democratic Party, where even the mention of more than one candidate was considered both ridiculous and impertinent.

On the second ballot, Dewey's vote dropped to 338; Taft's increased to 203; Willkie's leapt from 105 to 171. Adjournment was taken till night. On the third ballot, New York's vote was split by Dewey's devoted enemy, Kenneth Simpson, and 27 of the 92 went to Willkie. Dewey fell off to 315, and, while Taft gained 9 votes, for a total of 212, Willkie passed him and reached 259.

The convention hall was turned into a pandemonium by the everlasting reiteration, 'We want Willkie! We want Willkie!' It seemed to shake the whole nation as it reverberated through countless radio sets.

On the fourth ballot, Dewey, realizing he would not be nominated, released his delegates; Willkie took the lead and Taft touched 254. On the fifth ballot, Taft and Willkie each gained 123 new votes. Governor Alf Landon cried, 'Kansas gives all its 18 votes to Willkie!' The familiar stampede was on. The states raced with one another to be able to say 'I voted for you!'

The fifth total was: Willkie 429, Taft 377, Governor James 59, Dewey 57. For the nomination 501 votes were necessary. On the sixth ballot, Willkie swept everything before him and won the nomination.

Always the good loser, the cheerful sportsman and friendly



adversary, Dewey wasted no time in recriminations or regrets. Warmly he congratulated Willkie and promptly promised him full support. He gave it in full measure during the following campaign.

The convention nominated for Vice-President Senator Charles McNary of Oregon. So little known to the Republicans was Willkie that he met his running mate for the first time when he appeared at the convention hall to make his speech of acceptance.

The Democratic Convention met July 10th. Though there was bitter resentment against the nomination of the same old New Dealer, there was no effective opposition. When Senator Carter Glass of Virginia left a sick bed to protest against a third term and to place Postmaster General Farley in nomination, both the veteran and his references to the Constitution were noisily booed.

An effort to insert in the platform a plank against a third term was similarly howled down.

As the Republican Convention had been overpowered by cries from the gallery, so the Democratic was deafened by a loudspeaker in the basement eternally booming, 'We want Roosevelt!'

On the first ballot, the President received all the ballots except 149 divided among Garner, Farley, Tidings, and Hull. Farley moved to make the nominations unanimous.

Many prominent Democrats bolted, among them the former chairman of the National Committee, who said that 'the hearts of millions are broken.' The *New York Times* came out for Willkie, and in many places he aroused vast enthusiasm.

But the campaign was, to an unusual degree, fought out by radio. The President's remarkable skill and charm in its use had dealt fatal blows to the less effective Hoover voice. He found Willkie an even easier victim.

To an extent unknown for a long time hitherto, the opposition to Willkie took on aspects of ugly viciousness. Workers in factory windows howled at him as he passed. A woman was arrested for hurling a metal wastebasket at him from a high window, seriously injuring a woman on the

sidewalk. Throwing rotten eggs at him became a pastime even for children. The missiles did not always miss. In the words of one reporter, Willkie 'had more assorted sizes and kinds of vegetables thrown at him than anyone since old Mississippi showboat days.'

Meanwhile, Dewey fought hard for his rival, for his party, but more for his ideals of a free Republic.

In a speech at White Plains, New York, September, 1940, he said:

The world has passed from tragedy to tragedy, from Munich to Vichy. . . . Bureaucracy has multiplied until it puts its claiming hands upon the life of every citizen. The unemployed — nine and a half million strong — still ask for jobs that should be theirs. . . . There is only one thing indispensable about the leader of the New Deal. That is his retirement.

As for the Republican Party, it had immensely increased in strength and efficiency in New York State under Dewey's leadership. Though the Government was still Democratic, the State Legislature was overwhelmingly Republican and in its two years of power it had reversed 'the trend toward bankruptcy,' while a commission was trying to halt 'the exodus of business' from the State 'during the years of Democratic misrule.'

Dewey asserted that 'Franklin Roosevelt's record of broken promises is unique in American history' and 'he preached the false doctrine that the interests of worker and employer are antagonistic.' Dewey also accused him of having 'sought and accepted the support of corrupt political machines in the great cities of America.'

He has deliberately sought to identify his personality with the concept of liberal government. He thinks he is progressive. . . . We are asked to believe that enlightenment began in 1932 with Franklin Roosevelt and will end when he leaves the White House. This monumental fraud is not liberalism; it is personal government. When personal government begins, both liberalism and freedom end.

He further charged that Roosevelt had used the power of the Presidency ruthlessly to besmirch every man who had

aspired to succeed him in that office whether within or without his party.

In striking contrast with Roosevelt's well-known unwillingness even to indicate a possible successor, or the possibility of ever needing a successor, Dewey both toiled for and praised the man who had snatched the nomination from his own hands. In the course of his wanderings he went 'home to Michigan' for an address dedicated to the election of Governor Dickinson, Senator Vandenberg and Wendell Willkie.

Pointing out that the Republican Governor of Michigan had inherited from the previous Democratic governor a deficit of 30 million dollars, Dewey said:

But really Michigan is pretty lucky: with two years of a little New Deal, you had only a 30-million dollar deficit. In twenty short months of Republican administration, your budget is balanced. Schools and welfare have received additional millions of dollars of benefits, new hundreds of thousands of elderly citizens have been assisted by the State, the equipment of State hospitals has been greatly expanded. And all this without new taxes. . . .

A speech by me urging you to re-elect Arthur Vandenberg is as unnecessary as a nominating speech at the Democratic National Convention.

He attacked the New Deal for 'spreading discord among the people in the name of national unity . . . making the people permanently dependent upon the government. . . . It has continued so long that Harry Hopkins, ex-Secretary of Commerce, even says our unemployment is permanent. I agree to this extent: our unemployment is just as permanent as the New Deal and no more.'

He assailed the New Deal for 'contempt for the public word' and 'the repudiation of solemn pledges,' such as the promise that 'a sound currency would be preserved at all hazards.'

This speech is a fierce indictment of the New Deal before the court of history with its offenses listed and proved. Among these Dewey included 'the political execution of all rivals and critics.' And he gave the names in a long obituary

column of those who might have pretended to the succession, or who had even criticized the President. He charged:

There is no longer a Democratic Party. It died in Chicago. Its swan song was sung by the superintendent of sewers in the cellar. . . . Who killed the Democratic Party and who are its successors? Who owns the New Deal Party of today? There can be only one answer. It is in the absolute grasp of the dictators of Jersey City, Chicago, Kansas City, Tammany Hall, Albany, and the Bronx.

This charge was justified four years later when the same city bosses ganged up in the selection of the Vice-Presidential candidate and overthrew Henry Wallace.

In Pittsburgh and in Peoria in October, Dewey made two most powerful speeches, drawing up indictments of New Deal failure in defense. Against them there was no defense. The only defense attempted has been complete refusal to reply. The speeches are so complete a bill of particulars that an extensive quotation from them is irresistible as a refutation of the Administration's claim to foresight from the first and preparation in spite of opposition.

In Pittsburgh, the greatest steel-producing center in America, Dewey referred to the President's visit to the city a few days before:

A few days ago a distinguished visitor came to your city. I do not know when, if ever before, this gentleman visited a steel plant. But now in the crisis of an election year, he is very busy looking for plants which have survived these last seven years. . . .

Your visitor left you to go to another politically important state — on his non-political tour. At Youngstown, Ohio, there is a great steel plant which has defense contracts in the grand total of \$112,000. This is one-one hundred thousandth of the defense appropriation. Much of it is for nails — plain, ordinary nails. . . .

After driving through these plants, your visitor left with this admonition:

"The one thing to work for in speeding up this program is more speed, the quicker, the better." He also said: "To you, who are a part of defense . . . I give you the message, "Speed up all you can."

Those words — which should have been truly non-political — in fact, settled one political issue in this campaign. They settled the issue of the indispensable man. They settled it because they dramatize with greater force than the words of any other man could do, the seven years of economic slow-down, the seven years of deterioration, the seven years of unemployment, the seven years of neglect of our national defenses. They make conclusive the parallel between the Popular Front which wrecked France and the New Deal which left America defenseless in time of crises. . . .

You all know that we have practically no tanks — only enough to make one third-term campaign newsreel. We have few modern airplanes, a handful of modern rifles, not even adequate shelter for the men now enlisting in the Army. . . .

With all Europe trembling on the abyss, in January of 1939, Mr. Roosevelt opened the year with a special message. In that message he declared that 'no responsible officer' of the United States would advocate developing our air forces to match those of 'certain other nations.' You know the reversal that took place just seventeen months later, when Mr. Roosevelt called for 50,000 airplanes — more than all in those 'certain other nations' put together. But the damage was already done. Today, our vital fighter airplanes are still largely 'on order.' Today, we find we cannot have the planes we need for two long years, at least.

In January of this year, with the world at war, Mr. Roosevelt told the Congress of the United States that the \$1,800,000,000 then in the budget was, and I quote him, 'in my judgment, a sufficient amount for the coming year.' Only five months later he started asking for funds now totalling \$10,000,000,000 more. In other words, in his own express judgment, Mr. Roosevelt was wrong, desperately wrong, by more than ten billion dollars out of twelve. Wrong by 10 out of 12 — that is the record on which this Administration seeks a third term grant of power.

Is it any wonder Mr. Roosevelt comes to Pittsburgh and cries for 'speed, more speed, and still more speed'? You will answer that call for speed by giving it in full measure. But you will also answer it, remembering that the reason for that speed is the total failure of this Administration to prepare in time. . . .

You may properly ask, 'Why didn't the Army demand more money in these recent years?' 'Why didn't the Navy demand

more money in these recent years?" You may well say, 'If the President failed to see the crisis, at least they should have seen it.' The answer is, they did. And what happened? They were turned down. It is all on the record — the record of a bureau which is now and always has been under the personal control of Mr. Roosevelt — the Bureau of the Budget. I quote now from Congressional records of the testimony of Admirals of the United States Navy and Generals of the United States Army.

Here is the sworn testimony of an Admiral before a committee of Congress last July 23rd. He was asked whether his division needed a larger appropriation. He answered, 'Of course, I cannot recommend more, sir.'

The amazed Congressman asked, 'You cannot recommend more?'

And the Admiral replied in these significant words, 'Not without Budget approval.' . . .

The Army and the Navy could not recommend to Congress an appropriation for a single gun or a single airplane unless the President's Budget Director first approved. So now we know exactly where to place the responsibility for the tragic failure to rearm this country. It lies right in the White House. That's another reason why this country needs a new administration.

Now, did the Army and the Navy wait for the catastrophe of May, 1940, to make their requests? Or did they ask for the necessary funds and get turned down by those whose prophetic vision is supposed to entitle them to a third term in office? Again the answer is in the Congressional record.

Way back in the fall of 1939, a request was made for \$45,000,000 for plant enlargements for the Navy's share of the expansion of the aircraft industry.

And what happened to the request when it was made? Admiral Towers told what happened. He said, 'The Bureau of the Budget cut it out.'

Asked why, he added, 'I have never quite understood.' Billions for boon-doggling but not for national defense. . . .

On August 13 — just two months ago — Admiral Towers was asked about a new ten-million-dollar request for airplanes for the Navy. 'Why was not this money asked for in the regular bill?' The Admiral answered: 'It was asked for when the supplemental (request) went up to the Budget (bureau), but it was cut out. As a matter of fact, the figure was ap-

proximately twenty million dollars, instead of ten million dollars, and it was cut out'. . . .

In the fall of 1939, after the war in Europe had actually started, the President's Budget Bureau cut out 552 million dollars certified by the Army to be for critical and essential items, 552 million defense dollars cut out!

The story is the same with pilot training, dry docks, ammunition, fire control equipment, and gun mounts — all slashed by the Budget Bureau under Mr. Roosevelt.

There are a few samples from the record which the third-termers now ask you to endorse. It goes on and on — page after page of dreadful revelations of executive responsibility for a defenseless America. . . .

The tax policies have deliberately discouraged savings from going into new enterprises. The undistributed profits tax was frankly designed to turn money away from expanding and building new plants.

Almost every utterance from high administration sources has included attacks upon those who might build new plants. . . .

After seven years of blunders, Mr. Roosevelt now has to ask Congress to appropriate 740 million dollars of the people's money to build those very plants he said we did not need. In the last three months, the New Deal has made the most complete about-face in American political history. Terrified by the results of its own policies, but never admitting it, it is now borrowing 740 million dollars to build those plants for national defense — those plants which could have been built and operating during all of those destructive New Deal years.

In Peoria, Dewey continued to pile up irrefutable evidence of the New Deal's suppression of defense.

The third-term candidate for President says now that he will keep us out of war. He says now that he will give us an adequate national defense. In the light of his broken pledges, can we expect him to keep these latest pledges? . . .

As we know, our whole military equipment is 'on order.' What we have on hand is little more than an incomplete assortment of worn-out samples. The responsibility rests squarely on this third-term candidate who now frantically calls for 'speed.' Through his own Budget Bureau he has year after year denied Army demands. Through his own sterile

philosophy of defeatism Mr. Roosevelt himself has driven our industrial plants down and down. . . .

On January 30, 1933, Adolf Hitler came to power in Germany. On March 4, 1933, Franklin Roosevelt became President of the United States. Later in that very year, the Chief of Staff of the United States Army, General Douglas MacArthur, stated in his annual report:

'The Army strength in personnel and materiel and its readiness for employment are below the danger line. I consider it of the most urgent importance to the United States that this condition be rectified without delay.'

There, seven years ago, was the warning by the head of the Army of the gathering dangers of a world menaced by war. . . .

What was done here, to prepare the defenses of America?

General Malin Craig, who has succeeded General MacArthur as Chief of Staff, tells us. In the annual report of the Army for that year — 1936 — he said: 'We may describe' the armies of other countries 'as a finished machine, ready for instant use. . . . In contrast, ours is an unfinished and un-assembled machine. Some of its parts are not in existence, some exist as rough forgings, others in semi-finished form. Only a few are in a condition for immediate use.'

There is the record, three years wasted — three years of warning ignored by the third-term candidate who preferred to wage his private political wars at home. By 1936 the world had become an armed camp. And America was defenseless amidst the forces of aggression. Did Franklin Roosevelt take heed at last? Let us see what happened the next year.

His own Secretary of War gives the answer. In 1937, Mr. Woodring said in his annual report: 'The United States Army is relatively weaker, compared with armies of other great countries, than it was a year ago.' . . .

Two years later, in September, 1939, the European war broke out in all its fury. At that time, General Marshall, then Chief of Staff, reported:

'The Army machine is probably less than 25% ready for immediate action.'

There, in brief summary, is the disgraceful record of this Administration. If this be the indispensable foresight of the indispensable man, then let us have just the common sense of a competent man. . . .

Listen to the words of the Executive Assistant to the Secre-



tary of War, Colonel James H. Burns. On June 4, 1940, he testified that our present capacity for the manufacture of smokeless powder is at most 'some 25 million pounds per year' whereas in the World War we reached the capacity of 'one billion pounds per year.'

In other words, the New Deal leaves us with our capacity for the manufacture of powder at just 1/40th — that is 2½ per cent of what it was in the World War. And that was before the Hercules Powder plant blew up in New Jersey. . . .

When Franklin Roosevelt came to power he took over the most advanced country in the world in the field of aviation.

The New Deal had not been in office thirty days before it started to meddle with the aviation industry. I need not retell the shocking story of the cancellation of air mail contracts. . . .

Thirty-two leaders of the infant aviation industry were banished by their government from their companies, with never a trial, never a hearing — only a star chamber proceeding before a New Deal Commissar.

With careless abandon Mr. Roosevelt ordered the Army to carry the air mail — a job for which it was neither trained nor equipped. And in that job twelve young officers in the United States Army were killed. They were soldiers who died, not in battle for their country; they died under orders, carrying out one of the dirtier pieces of New Deal politics. . . .

Now, how about 1935? That was the year Adolf Hitler served notice on the world that Germany demanded her former colonies and Goering boasted of the menacing might of the Nazi air power.

What did the third-term candidate do then? Did he increase our Army Air Corps? With 1,650 officers authorized and the money appropriated by Congress, did Mr. Roosevelt ask for more? He didn't even have the 1,650. He actually cut the number from 1,307 to 1,226. . . .

How about 1936? The conquest of Ethiopia and the Spanish Civil War saw command of the air assume major significance in modern warfare. There must have been some foreboding in Washington.

What did the third-term candidate do? He reduced the number of Air Corps officers again. And furthermore, Congress had granted him authority to call out 1,350 reserve pilots in the Army, but he failed to use the authority. . . .

In 1937, the actual strength of the Air Corps officers was left at only 77 per cent of the authorized total. . . .

In 1938, the Congress of the United States authorized an increase in the number of Air Corps officers from 1,650 to 2,092. And what did the third-term candidate do? He left the officers of the Air Force at only 62 per cent of authorized strength. . . .

What happened in 1939? In a few short days, the Nazi Air Force blasted its way to the conquest of Poland — a nation of thirty million people. Soviet Russia increased its war budget 66 per cent over the preceding year. Japan adopted the largest budget in the nation's history — and 64 per cent of that budget was for war. And where was the third-term candidate? He began the year by solemnly telling the Congress that 'no responsible officer' would advocate developing our air forces to match those of 'certain other nations.' And he left the officers of the Army Air Corps at only 74 per cent of authorized strength.

By laws passed many years ago, there were created the offices of Assistant Secretary of War for Air and Assistant Secretary of the Navy for Air. Who are these gentlemen under the New Deal? Think a minute. You can't recall their names? No wonder! The offices are vacant. . . .

This record makes pleasant reading in the capitals of aggressor nations. These things have long been known to them. It's high time the American people knew them.

On November 4th, he spoke in Cleveland, following a speech made there by the President, and tearing it apart:

Our future will be realized only by those who believe in our past as well as in our future. . . . Our future will not be made by the dead hand of government, for that is the road to totalitarianism. It will be made only by free men strong in the knowledge that government is their servant and not their master.

An article in *Fortune* for January, 1941, summed up the feverish recovery from a Roosevelt depression that only the approach of war could have ended:

The debate on economic issues lost its allure as men poured into factories bursting with defense orders; as rises of 2 to 25 per cent took place in the sale of automobiles, liquor, cigarettes, movie tickets, household furnishings; as Cleveland machine-tool workers blew their bonuses in six-cylinder

coupés with push-button tops, and Bridgeport mechanics were suspected of boosting local champagne sales by 300 per cent.

Eighty thousand citizens jammed themselves into the Los Angeles Coliseum, eager to be wooed and wowed by Willkie. He lectured them on taxation. The rally was a frost. The great debate on the American Way had lost the spotlight for the duration. War in Europe was beyond doubt the decisive influence in Roosevelt's third election.

The Ifs of politics are amusing pastimes to indulge in; but they are not conclusive. There are many reasons for believing that if Dewey had won the nomination, his magnificent radio and platform voice, his political experience, his consecration to national instead of personal issues might well have turned the tide.

The speculation is only speculation. The indomitable historical fact was that Willkie lost the election. The final figures published in December told the story. The total vote was the greatest ever recorded. Nearly 50 million votes were cast, of which a little over 27 million went to Roosevelt, a little over 22 million to Willkie. The Socialist vote for Norman Thomas was the lowest in 40 years, the Communist vote for Earl Browder (out on bail) was less than 50,000—9,000 less than Roger Babson's Prohibition vote.

As it was, Willkie had reduced President Roosevelt's 1936 majority of nearly 11 million votes to less than half. Roosevelt's electoral majority of 523 to 8 in 1936 was reduced to a majority of 449 to 82, and his popular vote in 1940 was 233,000 less than it was in 1936.

The election was a sign of diminishing confidence and of increasing weariness. The winner might well have said, 'Another such victory and we are lost.'

## Chapter XXXVIII • VARIED ACTIVITIES

THE defeat of Wendell Willkie did not end his hopes for election four years later. But Dewey, as usual, returned to his tremendous tasks as District Attorney of the County of New York. His term had still a year to run. He was still the leader in New York State politics and, in the eyes of many, a man whose election to the Presidency had been merely deferred.

One of his chief battles was with the Communists, who were strong in New York, and who had actually organized a burlesque of the Boy Scout movement under the name of the Young Pioneers of America. One of their objects was 'to pledge the support of American children to the Soviet Union.' Their emblem was the hammer and the sickle, and one of their slogans was 'Smash the Boy Scouts.'

These misguided children were to be graduated from kindergarten Communists into the adolescent youth who won so much sympathy and cooperation from the President's wife and later booed both her and the President. Their gratitude toward their sponsors was typical of their gratitude toward the country that offered them so free a future.

On January 21, 1941, Dewey addressed the Boy Scouts of America at a rally for expansion. At this time Hitler and Stalin were allies and Dewey linked the youth organizations of the German Bund in America with those of the Communists. He had sent Fritz Kuhn to prison as a common thief. The Communists have always opposed Dewey, and been opposed by him.

Dewey's interest in conquering juvenile delinquency had

been keen from the first. He had devoted all the power of the District Attorney's office to merciful, sympathetic, intelligent efforts to remove evil temptations and substitute attractive stimuli to healthy and useful lives. In March, he went to Boston to address the National Probation Association on the hundredth anniversary of probation in America. In his belief that 'a district attorney can do much to correlate justice and social help for youthful offenders,' he described the policies and practices of his office.

The more his career is studied, the more it will be realized what a great warm heart he has, together with a soul aflame for justice and freedom.

Again, later in the year, on November 8, 1941, he spoke to the United Parents Associations of New York on 'safeguarding our youth for tomorrow.' He said:

In continental Europe a single atavistic force is driving hundreds of millions of people into slavery. That force is based upon the misuse of the youth of one nation. Before the start of the present war the youth of Nazi Germany were trained for seven years toward one objective. They were taught to obey, to hate, and to die. They were taught to despise freedom. . . . Against the Nazi system, it must be our objective, with equal efficiency, to train our youth to produce, to live, and to be free.

He went on to make criticisms of educational practices, and to denounce the crowding of the youth into professions where they had little hope of either usefulness or profit. This 'snobbish' idea of avoiding a productive life he denounced as ruinous. 'The mechanical trades in this modern world are mechanical arts.' He urged that our youth be trained in that direction.

The freedom and the future of the individual, from childhood on, is the very heart of Dewey's many crusades. It explains his fierce resentment of every least tendency to personalize our institutions into governmental regimentation and totalitarianism.

On February 12, 1941, he addressed the first annual Congressional Lincoln Day dinner in Washington. He reminded the hearers of the importance of the two-party system

against the super-party idea. He demanded 'the strongest military and naval force our nation can produce. With equal firmness our party stands almost unanimously for all-out aid to the heroic people of Great Britain.'

He said the Lend-Lease bill as first proposed by the Administration had been 'dangerous, unwise, and, by confession of the Administration today, in many aspects unnecessary.' He described the insistence of the minority on repairing the flaws in the bill. When the proper amendments had been made, he gave it his ardent support.

In a later address to the Methodist Conference, he insisted again, both that 'we must be armed to the limit for national defense,' and that we must protect Americanism at home. 'In France a great army was defeated because its people crumbled behind it.'

In March, he addressed the Organization for Palestine and spoke with all the sympathy for the Jews that has always characterized him.

In February, his former friend and later opponent, Congressman Kenneth Simpson, died. Dewey sent a message of warm sympathy to the widow, then entered the campaign in behalf of Joseph Clark Baldwin as his successor. Though President Roosevelt came out in support of a Democratic rival, Baldwin was elected.

In June, Hitler suddenly attacked his ally, Stalin, and changed the whole face of the war. The Communists, who had reviled the President as a war monger and picketed the White House in opposition to conscription and Lend-Lease, suddenly turned violently pro-war and so pro-Roosevelt that any criticism of him was denounced as almost sacrilegious.

Perhaps Dewey's most conspicuous national endeavor during the year was his work for the United Service Organization, of which he was made chairman. His first task was to raise 10 million dollars.

He travelled about the country in General Marshall's transport plane and had the money in the bank long before the organization was ready to make use of it. In ten days he visited 16 army and naval stations from the Mexican border to the Canadian. He learned to know the miseries of the

poor recruits marooned in camps isolated from the human touch. He made the nation see what he saw:

You will find 40,000 men in a camp where the nearest town has only 5,000 people. . . . Soldiers find they are not wanted. In one town there is one public comfort station in the entire town, and on Saturday noon when the men start coming in, the comfort station is locked until Monday morning. . . . The short of it is that more than a million and a half American boys, when they get a week-end off, have no place to go and nothing to do.

He described the plan to build 360 service clubs where the men could find relaxation and recreation as they wanted it. Even here Dewey struck the keynote of his life:

You may ask one question. You may say, if the government can build the service clubs, why should it not also operate them? The answer is that you don't want your government to take over the private lives of American boys when they have a night off, or a week-end off. That is their only chance to be free from discipline. It is their only chance to be ordinary American boys.

Having accomplished his purpose with superb speed and efficiency and no effort to claim personal credit, Dewey turned over the money and the entertainment to the soldiers and to those who could and should make their hours-off happy.

He made many addresses during the year, at a commencement, at an Institute of Human Relations, a Bar Association a training course in Law Enforcement, a Council of Retail Merchants. All carried the fire of American independence individualism, pride in free democracy, hatred of one-man pretensions, and perversions of our institutions.

The finish of the year finished his duties as District Attorney. His successor was Frank Hogan, who had long been associated with Dewey and trained in the work. He had been nominated by all parties and elected without contest. Dewey retired to private practice of the law just as the word 'Pearl Harbor' took their sudden and immortal place in American history, and changed instantly the whole course of American life, public and private.

Now the nation found itself desperately in need of that two-ocean navy which Dewey had begun to demand on January 24, 1940, at Portland, Maine. As late as May 15, 1940, the *New York Times* had reported a press conference as follows:

Mr. Roosevelt brushed aside as utterly stupid suggestions that developments in the European struggle and their implications in the Pacific strengthened the arguments for a 'two-ocean American Navy.' If it ever had any merit, that theory became outmoded with the acquisition of California in 1847. Such a conception of the nation's floating defenses was 'just plain dumb,' he added.

Just how dumb the conception was, was made plain when our great battle fleet was held under orders tightly packed in Pearl Harbor, to be shattered like sitting ducks by the Japanese raiders. In spite of the well-known Japanese habit of declaring war by surprise attacks, the Army, Navy, and Air Commanders were under strictest orders to maintain a peace-time attitude, while the Japanese Ambassador in Washington lulled the suspicions of the Commander-in-Chief of the Army, the Navy, and the Air Force.

No Congressional or other effort has yet availed to pierce the mystery of just what orders were given, or to bring to trial the admiral and the general who bore the blame for criminal negligence of the most primitive precautions. Those two officers have appealed in vain for trials, which have been postponed so often that the legal limitations have had to be extended more than once. No power has been able to set the trials forward of Election Day.

Almost the last word the President had uttered before Election Day in 1940 was on October 30th when, in a speech he made at Boston, he quieted the militant pacifists with these words:

And while I am talking to you, mothers and fathers, I give you one more assurance. I have said this before, but I shall say it again, and again, and again: Your boys are not going to be sent into any foreign wars.



That assurance was so definite that it won over countless unconditional isolationists and assured Roosevelt's election. Later events made this solemn guaranty so preposterous that the phrase 'unless we are attacked' was added in justification.

That no such words were really uttered at the time was asserted on July 26, 1944, by the New York *Daily News*, which offered to pay \$5,000 to any one who would prove that such words were uttered. The challenge remains unanswered.

The importance of this matter is the continued violence of the New Deal assaults on Dewey as an isolationist opposed to preparedness and international cooperation. Yet it is abundantly proved by his speeches at the time that Dewey was denouncing Roosevelt as one who had been an isolationist and had perilously neglected vitally necessary preparedness after wrecking the first great hope of international cooperation on a financial and economic basis by his 'torpedoing of the London Economic Conference.'

In building a mythology it is always necessary to imagine devils to oppose the imaginary demi-gods. That process has been carried out in every detail by the New Deal deifiers.

## Chapter XXXIX · SECOND TRY FOR THE GOVERNORSHIP

THE year 1942 brought in another campaign for the governorship of New York. Governor Lehman stated that he would not run again. And he added 'positively.'

Though Dewey had lost the previous election and the Presidential nomination in 1940, no other candidate even interested the Republicans. He had returned to the private practice of law and the promise of building up a private fortune, because his fame had enhanced his demonstrated skill, his habit of extraordinarily thorough preparation, and his habit of winning the cases he took up.

Meanwhile, he had been in constant demand as a speaker. At a Lincoln's Birthday dinner, he said, 'Only by our conduct can we keep bright the name Republican, which he bore.' He pointed out the necessity in our two-party system of an opposition 'to render intelligent criticism. Else great blunders could go unchecked. . . . Under any free system, if there were not an opposition party, one would have to be created.'

He reminded his hearers of his support of the Lend-Lease bill a year before. He warned of the 'necessity of making sure that under cover of the war effort no revolutionary system is smuggled into the American way of life while the rest of the nation is fighting to preserve it. Never in our history was there so great a need for a vigilant patriotic opposition.'

In addressing a rally of the B'nai B'rith, he described the preparation in his office of the prosecution of the Hitlerite, Fritz Kuhn, and denounced anti-Semitism:

Only three per cent of our population is Jewish. But the records of the last war show that more than four per cent of the

United States Army was Jewish, as were five per cent of the men killed in combat. Now we have it all over again. It will be answered in the same way.

He said that our soldiers were needed on foreign soil and should be sent there. He insisted that every man at home has 'a patriotic task to do — a gigantic task. . . . May the God of all of us make us worthy of our cause.'

In April, he spoke to the Long Island Association on *A Pattern for American Dictatorship*. He rebuked first the 'effort to unionize the American farmer' as a 'none too subtle attempt to get control of the American food supply.' . . .

The American people are fully convinced of the necessity for a strong labor movement. For that reason they are reluctant to expose and attack abuses. The person who does so faces an immediate smear and his motives are challenged. But on occasion the good name of labor is debased into a struggle for power by a single individual.

No one in America has shown more courage in facing the lightnings of labor hostility than Dewey. He had braved the attacks on him as a labor-baiter and proved himself labor's best friend by sending to the penitentiary crooked looters of labor masquerading as leaders. He described now in detail with names the plan to spend vast sums from labor's treasury to take over 'the production and distribution of milk, the greatest industry in the state of New York.'

With the campaign for the governorship so close at hand, a mere politician would have kept quiet about, or connived in, the conspiracy. But Dewey is a statesman, never a trimmer. He assailed and helped defeat the latest enormous threat against American freedom, as he has always fought against its enemies, whether from above, within, beneath, or without.

In addressing the Republican Women of Greater New York, he said:

It took a year and a half of prodding before the Administration even began to accept the plain lessons of the last war. It took a year and a half to get unified war production under one man. . . .

How strange it is that, for nearly ten years, defeatist economists and politicians have been speaking of our dying economy. Funeral orations have been repeated and read over our economic system. Now it is producing the power that is saving the United Nations. From Vladivostok to Madagascar anxious eyes are turning for aid to the factories of the United States.

Meanwhile the Administration is busy putting in reverse every economic concept it has preached for years. It used to tell us that our industrial plants were overbuilt. Now untold billions must be poured into the construction of new plants. . . . It used to tell us that we had too much food, and throttled its production. Now it must ration what it so long tried to destroy. It used to pillory industrial managers as public enemies. Now it calls upon them to save the nation from disaster.

Those foolish, false prophets who could not plan for a war they said was inevitable could not plan for a new world. A recent report reveals that 35 Government agencies are engaged in post-war planning. They would have us believe that those who were blind to the realities in a pre-war world will have inspired vision in a post-war world. . . .

The problems are no matter of partisanship. When the war passes we shall never again tolerate a pinched standard of living or a lowered horizon of production. We Republicans are the sole bulwark against the fatal one-party system. We shall not fail in our high duty.

In the same spirit he later addressed the Young Republicans, and many other groups. His voice was always vibrant with hope and trust in the greatness of the American soul and in defiance of any attempt to harness it to any one-man or one-party control.

In June, the political pot began to boil with the campaign for the governorship. President Roosevelt, after a long parley with Farley, apparently approved as a candidate the State Attorney General, John James Bennett, Jr. When asked by a reporter whom he planned to support, the President rather sharply said that he had read fool stories about a dispute over Democratic leadership in New York, but he was too busy being President to intervene.

After this typical evasion, he came out strongly for Senator

James M. Mead (using an expression he made famous two years later in a dubious recommendation of Wallace):

If I were a delegate to the Convention, I would cast my vote for Jim Mead.

But Farley clung to Bennett. Even when Governor Lehman joined the President in Mead's support, Farley refused to capitulate, accused Mead of having been an isolationist, and prophesied both the nomination and election of Bennett. The Democratic Convention was the battleground of two bitter factions, and the President lost the fight. Bennett defeated Mead by 623 to 393.

The American Labor Party had cast its entire vote in 1938 for Lehman; but now it broke away, attacked Bennett and Farley and nominated a candidate of its own, Dean Alfange.

There had been some talk of 'drafting' Willkie as the Republican candidate for governor; but his name was not put up at the convention in Saratoga. Instead, he went abroad as a sort of private ambassador for the President.

Dewey was nominated without opposition on August 24th. In his acceptance speech, he said:

Right now, let me make plain one thing: the war in which America's young men are fighting and dying is not a political issue. . . . On the beaches of France last week and in the steaming jungles of the Solomon Islands there were both Republicans and Democrats. They were fighting as plain Americans together.

He spoke of the Democratic Convention in Brooklyn the week before as representing 'those who have had the uninterrupted rule of this state for twenty years.

Glutted with power, they have come to think only of their proprietorship. To hold it they pour vitriol upon one another. . . . At the controls were always Tammany Hall, the Brooklyn and the Albany machines and that delicate flower of machine politics, the great friend of the people, the Democratic National Chairman from the Bronx (Edward J. Flynn). . . .

In every nation on earth which has only one dominant party, no man dares to differ with his ruler. . . . The Re-

publican Party stands united today as the sole bulwark of the two-party system in America. . . . We can fight a war and at the same time strengthen our government.

In all his speeches, as he made a statewide tour, his eloquence was all for support of the war and defense of American institutions. He defended especially the importance of the State. He told of the immense improvement in New York State since both houses of the legislature had been Republican.

In a colored Baptist Church in Harlem he told of the harmonious work, in his office, of the colored men and women with the white members of his staff. Speaking of the injustices done the Negroes, he said:

I hate this blot on the American record. It must be wiped out. We are going in the right direction but our goal is still far away. For all its hates and savagery, it will be glorious if this war helps us to wipe out this blot. I believe that it will. . . . We Americans live in a democracy dedicated to the ideal that all men are created equal. Our sincere struggle to realize that ideal will never cease.

During the campaign he gave a series of Monday night radio talks. He spoke of agricultural problems and his plans for meeting them. He assailed the Democratic plan to leave all such problems to the officials in Washington. "Their only answer to a program by which the State may help the Nation is simply this, "Let Washington do it." "

He promised, if elected, to attack corrupt power wherever he found it. He assailed the wanton attacks upon the Jews that were becoming common in New York.

He tore the Democratic record to shreds, particularly that of the reactionary faction. To the more liberal element he gave full credit, claiming for the Republicans only their fair share in all progressive legislation, a record the Democrats have done all in their power to deny and obscure. He promised that:

The right of collective bargaining shall be jealously protected and extended; the State's labor relations, mediating and unemployment insurance services expanded; recent break-

downs in workmen's compensation cleaned up; the anti-injunction laws upheld, and criminal laws against strike-breaking agencies, labor gangsters, and racketeers upheld.

He pointed to his own record — a magnificent one — as the friend of the poor and of honest labor, and of every race.

The enthusiasm for Dewey mounted and mounted. The Democrats grew so desperate that President Roosevelt telegraphed Bennett, whom he had opposed:

To suggest that my support of you is formal and lukewarm is an untruth. You are without any question the best qualified man of all the candidates for the governorship.

The election was a sweeping triumph for Dewey. He won 2,116,000 votes, beating Bennett by more than 600,000. The American Labor Party once more polled 400,000 votes. This time they went for a separate candidate; but even if they had been registered for the Democratic nominee as before, they would still have left Dewey far in the lead.

Dewey's victory was part of a great tidal wave of Republican return to power and to its needed share in the conduct of the government. The Republicans won 44 seats in Congress and came within a narrow margin of control. They gained 9 seats in the Senate. So many Republican governors were elected that their States contained a population of 76 million with an easy majority in the electoral college. Governor Bricker of Ohio was reelected by 375,000, the largest majority ever given an Ohio Governor. Senator Taft promptly nominated him for the Presidency in 1944.

Back from Europe came Wendell Willkie now in the new role of an internationalist. His book *One World* had an almost unparalleled sale and he and his cohorts began at once a frank and open campaign for re-nomination on the Republican ticket.

But Dewey had taken New York away from the Democrats after a twenty-year leasehold, and his stock as a candidate for the Presidency once more began to soar. He protested that he did not intend to run. He had enough work to do as Governor and wanted to stick to that job.

## Chapter XL • HIS ACHIEVEMENTS AS GOVERNOR

WHEN Dewey assumed the governorship of the state of New York, he took over the largest administrative office in the nation next to the Presidency.

As Governor of New York, he met problems so large as to involve national and international affairs. But he turned his eyes away from the Presidency and let Willkie work for it.

Dewey kept all his promises. He combined economy with increase of efficiency. After a score of years on the outside, there was naturally a rush of Republicans for offices hitherto monopolized by the Democrats. But the job-hunters were confronted by Dewey's insistence on a thorough investigation of each applicant by the State Police and other agencies.

Having once appointed his aides, Dewey gave them freedom and responsibility. At the end of his first three months in office, he made a report in a radio address: *Your State and the War*, in the course of which he said:

We were pledged to clean out accumulated cobwebs and dry rot; to reform the tax laws to meet human needs; to achieve the long overdue reapportionment of the Legislature; to put the State in the forefront of the battle of food, and to bring into the service of the State that spirit of teamwork so necessary to victory.

Your State-wide elected officials and legislators have worked together on every problem. Every one has put in long hours gladly. Every proposal of the administration has been the fruit of many minds. . . .

In the face of the crushing burden of Federal wartime taxation it was imperative that changes be made in our tax laws to



meet the human needs of our taxpayers. During the campaign last fall, I recommended that the tax laws be modified to provide for the deduction of extraordinary medical expenses, for reasonable deductions for life insurance premiums, for a dependency credit for the parents of students over 18 years of age, and for the payment of personal income taxes in quarterly installments.

By action of the Legislature that entire program has now been made law. As a result, the income tax returns to be filed this month will show a saving to our people of some five million dollars. In addition to these new deductions, the 25 per cent reduction in the State income tax, first put into effect last year, is being continued. This will save the taxpayers forty million dollars more this year. . . .

In many areas of our State the people have been long denied even a pretense of fair representation in the State Legislature. Under the State Constitution the seats in the Legislature are required to be re-districted, according to the census figure, every ten years. Yet we had had no reapportionment for twenty-six years.

Last fall I promised to do all in my power to correct this injustice. I am happy to report that after the years of delay, reapportionment was passed by overwhelming majorities in both Houses. We are doing our best in this State to preserve free government at home. . . .

A full scale program is under way to recruit, train and place every available able-bodied man, woman, boy and girl over 14 in the State for such farm work as they can do. . . .

No projects had been approved for the care of children of New York women engaged in war work. To meet the problem, the New York State War Council prepared a program of child care until Federal funds could become available. Again the Legislature gave its full support. . . .

We have permanent full-time employees in this State paid as little as \$900 a year. One of the first acts of the Legislature this year, upon my recommendation, was to raise the minimum pay to \$1,200.

Another Moreland investigation is examining the administration of the Workmen's Compensation Law. Its preliminary reports have disclosed a shocking history of widespread bribery, direct and disguised, over many years. . . . They have siphoned off millions of dollars of moneys intended to give security to the workingman and his family. . . .

We use these times to strengthen the State for stormier seas ahead. With the National Government piling up a debt of unbelievable size, we must, if possible, keep ourselves strong enough so we shall not have to impose additional taxes in days to come. Our State — one-tenth of the Nation — pays one-fifth of all the taxes of the National Government. For the sake of the war effort we must prepare to keep our own taxes without increase and build a strong financial position for the future. . . .

A million young men will come home to this State at the end of the war. Our duty to them, second only to the winning of the war, is the highest duty of all. Another two million people here at home will be engaged in the change-over from war work to peace. They will want and need a State government which has had the foresight to help build for the future — to help create conditions under which business and industry will be attracted to the State — conditions under which there will be jobs for our people. . . .

History must and shall not repeat itself this time. It must not again record the shameful story that fighting men came home to beg for the right to work. We must and shall prove that a free people can do better, that teamwork in free enterprise can make a free society secure, a fit place for brave men.

In the course of his administration, he built up a great reserve fund of 163 million dollars and had it set aside for the needs of the soldiers after the war; for them also he extended unemployment insurance to soldiers who had not been employed when enlisted. He put into practice many reforms that had been simply public outcry for twenty years of Democratic promises used as campaign bait and forgotten.

He laid claim to revenues as rental for the use of the State's vast powerhouse in Niagara Falls; and secured the money. He gathered the savings banks under the protecting wing of the F.D.I.C. He built up a staff of experts in all fields of State activity. Finding that convicts engaged in work and training were compelled to use equipment half a century old, he had it modernized so that the released prisoners could ask for jobs with some knowledge of up-to-date machinery. His commissioners took up the matter of rehabilitation and occupation therapy for the inmates of institutions.

In the early days of Dewey's activity as District Attorney, two of the most vicious criminals were the bosses of the garment racket, known as Lepke and Gurrah; their real names Buchalter and Shapiro. As District Attorney, Dewey broke up their racket and secured their indictment and conviction for various crimes. Gurrah was imprisoned; but Lepke fled, and Dewey pursued him relentlessly, even to the point of appearing in the newsreels and describing him.

He made the country so hot for Lepke that he surrendered, not to Dewey, who had him under indictment for murder, but to Walter Winchell, as some sort of agent for the F.B.I. Attorney General Murphy took him in charge on a dope-peddling indictment and later Lepke was tried in Brooklyn for murder, and convicted with two of his trigger-men. After all the appeals were over, the Federal Government failed to surrender Lepke for execution. Dewey refused to permit execution of the two lesser figures while their more evil colleague was in a sense protected from harm by the United States Government. Dewey's demands for his surrender were refused and Attorney General Biddle fell into conflict with him. After prolonged resistance, Dewey won. Lepke was finally turned over to New York to receive his punishment.

In earlier chapters in this book the reign of the O'Connells over the capital city of Albany has been described. In 1938, Dewey had promised to dethrone them if he were elected. But he was defeated by Lehman, and they continued to reign undisturbed as they had done through nine successive Democratic administrations.

Once installed as Governor, Dewey's State Controller Frank C. Moore proceeded to gather evidence to prove a shortage in the city's funds of \$1,600,000; other investigations showed 'wholesale and shocking violations of the election law,' and the use of arbitrary tax assessments to favor the friends of the O'Connells and to punish their critics.

The District Attorney of Albany County retorted by ordering grand jury investigation of alleged expense-account padding by the State Legislature under Republican control. He was accused of padding the grand jury with O'Connell

partisans. At the present writing, the prosecution has not reached a conclusive result.

On June 7, 1943, Dewey announced that the national food shortages were growing alarming. He laid the blame on bureaucratic confusion, and the arbitrariness of ignorant men in power. A conference of governors was held in Columbus, Ohio, and Dewey told the mid-westerners that unless they sent more grain to New York, milk would have to be rationed by October. The Governor of Indiana asked:

'Would the Governor of New York advise us to kill our pigs?'

Dewey laughed back: 'Yes, I would advocate the immediate execution of your pigs, because they are competing with my cows for corn. But I favor eating the pigs instead of plowing them under.'

As insurance against a dearth of food, Dewey had \$200,000 allotted to a fund for instructing New York people how to can the maximum amount.

In August at the annual convention of the State Federation of Labor, Dewey urged organized labor to cooperate in the effort to 'make certain that the regimented economy of war . . . should be succeeded by a peacetime economy of freedom under the law.' He praised labor for its contribution to victory and its no-strike record in the State and pledged the continuance of progressive social and labor policies. He said:

Free men, living in mutual respect, can solve any problem. . . . In time of total war abridgement of our rights is probably inescapable, but we are fighting to make sure that such totalitarian conditions cannot exist in time of peace. Whether we recognize it or not, the peacetime effect of Government control over the terms and conditions of labor would inevitably be to regulate out of existence the whole purpose of labor unions. . . . There is no place for genuine collective bargaining in a regimented economy. . . . There can be no free labor except in an enterprise economy conducted by free men.

The victories won by American fighting men were made possible by victories previously won on the production fronts. I

take particularly great pride in the fact that there have been no industrial strikes of any moment in the State of New York.

In the course of his address he made statements that had a national significance for the future.

At the height of the war effort the people of our State changed administrations. They brought a different party into power and a complete new set of State officers. And with that change there was not one second's interruption of the public service or the production of goods, services, and food for war. On the contrary, I can confidently say that this State is more vigorously in the war effort, in every department, than ever before.

In this critical year we have had no contest between the executive and the legislative branches of the State government. We have had no squabbles between department heads in the public prints, or, to let you in on a secret, in private either. In order that the nation might fight better abroad we made certain that there should be no fighting at home. Yet, not for one moment has there been an impairment of the two-party system of free discussion or difference of opinion.

In September, the Republican Party leaders held a conference on Mackinac Island. Of the twenty-four Republican governors, eighteen were present. The most difficult problem was agreement on a foreign plank. The final draft of it read:

'The Republican Party favors responsible participation by the United States in post-war cooperative organization among sovereign nations to prevent military aggression and to attain permanent peace with organized justice in a free world.'

It was stipulated that all action must be taken through constitutional channels. It was at this meeting that Dewey also advocated future close cooperation with Great Britain and, if possible, with Russia and China. His world-embracing creed of liberty was expressed in his statement:

Equal opportunity for self-development is a fundamental American doctrine. It can and should be part of our foreign as well as our domestic policy.

Without any pretense to command, his leadership was tacitly recognized, and in spite of his continued refusal to present himself as a candidate, he continued to lead all the polls as the favorite Republican nominee for the Presidency.

The death of Lieutenant Governor Thomas W. Wallace rendered a new election necessary. The Republicans nominated Joe R. Hanley. The Democrats put up Major General William N. Haskell, in whose behalf President Roosevelt put forth every exertion. The Democrats hoped that, by electing a Democratic Lieutenant Governor, they would effectively block any temptation Dewey might feel to accept a Presidential nomination. Hanley's victory by an overwhelming majority was taken as a tribute to Dewey's administration.

The fall elections continued to favor the Republicans and the number of governors was increased to twenty-six by the defeat of Boss Hague's candidate in New Jersey and a most unusual Republican success in Kentucky.

## Chapter XLI • THE CAMPAIGN OF 1944

THE Republican contests for the Presidential nomination were in full swing at the beginning of 1944. Governor Bricker had announced his candidacy and had begun a 20,000-mile tour of the nation in behalf of Republican policies and his own rights to represent them.

Wendell Willkie was devoting his energies to an all-out campaign for the nomination. He and an elaborate organization worked like beavers and he even made the prophecy: 'I will be the Republican nominee.' While attacking the Administration for its domestic blunders and its effort at the perpetuation of one-man rule, he laid his greatest stress on international one-worldliness.

Dewey refused to lift a finger for the nomination. In fact, he went so far as to request the removal of his name from the ballots in certain states. Yet he continued to lead in all the polls. Before the Wisconsin primaries, Willkie made an exhaustive, not to say exhausting, campaign throughout the State. Dewey demanded that the 24 delegates running in his name withdraw. Nine acceded but fifteen stayed in the race. The result was dumbfounding. Willkie received not one delegate, while all 15 of the delegates running in Dewey's name were elected and two others who announced they favored him, though not using his name on the ballot. Willkie thereupon withdrew from the running, though he later published a series of syndicated articles expressing his views.

In April, there was a council of twelve State governments in New York. In Dewey's address, he protested against 'the

siphoning of the funds of the people direct to the national government.'

Ultimate power remains always with the control of the purse. . . . The Federal Government now has a civilian staff of more than 2½ million — 2½ times the number needed in the last war. . . . Lost in the catacombs of Washington, their capacity seems to be so sterilized and counterbalanced that their usefulness is lost to their State and also to their country.

He discussed the farm problems and the food catastrophe, which 'arose simply because the National Government never saw the problem — never acted on it until a few weeks ago. . . . We can only attempt to repair it by the resumption of local responsibility.'

He told how impossible it is for a central government to handle local problems, and reminded the hearers that the totalitarian tendencies of the Administration were just what we were fighting against in our foreign enemies.

In May, there was a conference of the Governors of 39 States in Hershey, Pennsylvania. Here Dewey made a speech calling for a united country when victory was won. Nearly everybody seemed to accept him as the Republican nominee in spite of his repeated statements that his position was unchanged.

There was a ferocious national dispute over a federal ballot put forward by the Administration. This made it easy for the armed forces outside the country to vote for a President and a Vice-President, but no other candidate. And there were well-founded accusations that the vast propaganda power and efforts of the Administration had flooded the armed forces with more or less subtle implications that their only friend, the only trustworthy candidate was their Commander-in-Chief. Other candidates were ignored or misrepresented.

The federal ballot was plainly a violation of the most fundamental restrictions of voting to the control of the States. This fact was forcibly brought forward, but the Administration was too fond of thrusting the Constitution aside to pay any heed to such protests.



In New York, Dewey offered a plan for soldier voting that was simple and 'executable at any spot.' He opposed the federal ballot not only as unconstitutional but also as fostering the concept that 'states don't count.' As in many other states, absentee ballots were made available for a vote on all the candidates for all offices, and conditions were made easy for the armed forces. But the outcry of the Administration's passionate devotees continued.

Demands were made upon Governor Dewey to call a special session of the Legislature to legalize the federal ballot. His references to both the national and the state constitutions and his oath of office had no effect whatever on those to whom the Constitution and oaths to uphold it seemed to be matters of indifference.

When the Republican Convention convened in Chicago on June 19, 1944, the city was packed to suffocation and record-breaking heat made the suffocation almost literal. It seemed to be a foregone conclusion that Dewey would be nominated in spite of himself. The general feeling was that Governor Earl Warren of California would be the Vice-Presidential candidate.

Warren made the keynote speech, but absolutely refused to accept the Vice-Presidency. Governor Bricker of Ohio was actually the sole contender for the Presidential nomination. His followers were many and eager.

The nominating speech for Dewey was made by Governor Griswold of Nebraska. The Dewey delegates marched in the customary parade. Then Governor Bricker made his way to the platform unexpectedly. Quieting his supporters with some difficulty, he asked them not to nominate him and paid a glowing tribute to Dewey with an eloquence equal to his fine sportsmanship.

The first ballot gave Dewey every vote except one. Though General MacArthur had not been nominated, a single delegate from Wisconsin voted for him and refused to withdraw his solitary ballot when requested to in order that the vote for Dewey might be made unanimous. His eccentricity was so futile and so quaint that the convention hall resounded with laughter.

Governor Bricker was unanimously nominated for the Vice-Presidency, and the linking of the two homely names of 'Tom and John' seemed to augur well.

Dewey flew to Chicago with his wife and accepted the nomination in a brief and powerful speech in which he said:

You have laid upon me the highest duty to which an American can be called. No one has a right to refuse that call. With the help of God I shall try to be worthy of that trust. . . .

I come to this great task a free man. I have made no pledges, promises or commitments, expressed or implied, to any man or woman. I shall make none except to the American people.

He then pledged the people 'a cabinet of the ablest men and women to be found in America. . . . The election will bring an end to one-man government in America.' He pledged to the Allies all help, and to the Axis powers such crushing defeat that they will never again make war. He gave assurance that a change of administration would not involve any change in the military conduct of the war. But he would put an end to the 'squabbles between Cabinet Members, feuds between rival bureaucrats and bitterness between the President and his own party members in and out of Congress.'

He said that the Administration 'in its young days did some good things. That we grant. But now it has grown old in office. It has become tired and quarrelsome.'

He devoted most of his address to the problems of the peace and an end to 'the dreary prospect of a continued war economy after the war, with interference piled on interference and petty tyrannies rivalling the very regimentation against which we are now at war.'

He took up especially the matter of future jobs and the Administration's inability to solve the problem except by war. He asked: 'Do we have to have a war in order to get jobs?'

In a peroration of noble eloquence he pictured the ideals that had made America 'the hope of the world.' And he promised to bring back the ancient faith.

In his first press conference as the nominee, the following day he made another most favorable impression on the 150 newspaper men present; though he had previously shone rather as the cross-examiner than as the target of a throng of cross-examiners.

Marked also was Mrs. Dewey's conquest of her swarming interviewers. Though she protested her intention to continue avoiding public life and publicity, her beauty, her charm, intelligence and wit proved that she would be one of the finest in the long line of First Ladies of the Land.

Her mother and father had come up from Texas for the occasion. And Dewey's mother had come over from Owosso to share her son's triumph.

After conferences with Bricker and other leaders, Dewey and his wife returned to Albany, he to catch up on state business and start planning the campaign.

Before the Democrats met in convention, Mr. Roosevelt decided not to wait to be 'drafted.' In a letter to the National Chairman, Hannegan, he expressed his reluctance to serve longer, but volunteered that if the people, who are even a greater Commander-in-Chief than himself, insisted, he would 'like a good soldier obey.'

The peace of the convention was marred by a bitter dispute over the seating of the delegates from Texas. One group had been chosen at a regular convention, but because of its hostility to Roosevelt, a number of delegates marched out, and elected their own group. When the Credentials Committee in Chicago, after a long battle, ruled that the regular delegation should divide its votes with the pro-Roosevelt rump delegates, the regular delegates marched out.

There were reports that the speaker chosen to nominate Roosevelt, Senator Alben Barkley, thought he had been promised the Vice-Presidential nomination. When he learned that the President had distributed his smile among many others, he refused for a time to make the nominating speech at all. After some frantic persuasion, he did his stint.

A seconding speech was made by Vice-President Wallace, who had also counted on being renominated. His praise for

his chief amounted almost to apotheosis; but the President's letter in his favor was of such faint praise that it amounted almost to a bill of divorce. The 'assistant president' Byrnes had also shared in the distribution of promises, and left the convention when he learned how many competitors he had.

When a woman delegate from Florida came forward to nominate some one other than the President, she was booed. She nominated Senator Byrd of Virginia. The delegates gave him 89 votes and 1 for Farley. The President received all the others; but no motion was offered to make it unanimous.

Mr. Roosevelt made his acceptance speech by radio from a Pacific naval base whither, he said, he had gone in the performance of his duty. He did not mention the name of the base nor the fact that his private train had happened to pass through Chicago at a lucky hour and had lingered in the yards while Chairman Hannegan consulted with him over the tangled problem of the Vice-Presidency.

The fight for this post was exceedingly bitter. The Wallace supporters included Sidney Hillman and his C.I.O. forces and they put up a battle that threatened to turn the convention into a riot. Wallace had a wide lead in the first ballot, but on the second, there was a stampede to Senator Truman, and he won the nomination. Rarely have so many candidates felt so sure of Presidential favor or so humiliated by what must have seemed a ruthless betrayal.

Now that the issue was joined, Dewey began with characteristic energy to marshal the forces of Republicanism and the evidences against the Democratic right to permanent monopoly of the Nation's powers.

After Governor Bricker had visited him at Albany, he called for a conference of Republican Governors to meet at Saint Louis on August second.

On his way thither he stopped at Pittsburgh where he held a series of conferences with business, labor, agricultural and other leaders. He stopped off again at Springfield, Illinois, to lay a wreath on the tomb of Lincoln and addressed a crowd of 10,000.

In Saint Louis, the twenty-six Republican governors convened and fourteen sub-committees were appointed to draft a statement of policies. This was published as a 14-point program of action and a declaration of the principles on which the campaign would be based.

Pointing out that the President had ignored the Governors of States for ten years, they proposed to restore the original relations of the States to the Nation, and agreed on plans for returning power to the people, and the people to peace and prosperity.

On August fifth, Dewey returned to New York to prepare his own plans for his appeal to the people.

## AFTERWORD

THIS is an all-too-brief sketch of the crowded life and the eloquence of a patriot who has accomplished great things while still in early middle life. His magnificent achievements, his battles against ancient enemies of the Republic, his victories over old and mountainous evils, his selfless courage and skill, his usefulness to his city, then to his state, and always to his country, have been only touched on.

The man himself must be left to be judged by and from his deeds. They are so many and so big, they tend to hide the doer of them and many people assume that he must be a cold, humanless machine of efficiency.

Certain politicians who realize the appeal of demagogueries, keep their personalities to the fore, stoop to clownish jovialities and court popularity in every way while co-operating with the grossest and most corrupt machine bosses.

Dewey lacks both the ability and the willingness for such showmanship and duplicity. Yet he is the opposite of humorless. He is witty, a lover of wit in others, a ready laugh and a man whose keen sense of humor has saved him from ever falling into bathos or demagoguery. His public speeches are never heavy, never lacking in the lighter touch.

He is warm-hearted, deeply sensitive to sensitivenesses in others. His interest in the poor and the oppressed is not only intense but has proved itself by his immense enthusiasm and efficiency in all that may help them. He has known what it is to be poor and to need money. As Governor of New York, he urged that deductions should be allowed 'for unusual medical or hospitalization costs,' and explained:

I shall never forget the year, early in my married life, when a series of illnesses and operations took almost half my earn-

ings. And that is an experience which almost every family goes through at some time. I think medical deductions might well also include the costs of caring for mothers at child-births.

A reasonable deduction should be permitted for life insurance premiums. Everyone, especially those with dependents, ought to carry life insurance. In my own case, as in that of millions of us, our life insurance is the only protection our families have against possible disaster.

He is a self-made man, a small-town man who has risen by his own merits, his tremendous energy and his unquestioned honesty. He married a beautiful girl from a small town who educated herself in music by her own energy and intelligence.

Mrs. Dewey is the sort of person who could take the forbidding old Governor's Mansion in Albany and with a minimum of apparent effort or outlay, make it a real home for her husband and her two boys. The transformation she has worked at the Mansion in Albany was described in a recent article in the Albany *Times-Union* in these words:

Under her acute housewife's eye the crimson gloom of the Executive Mansion has been lifted. Even the staff, some of whom are now rounding out two decades of service, admit that she has made the old mansion 'more homelike.' No resentment creeps from them at the unexpected change, the remodelings of set rooms, the modern, well-chosen wallpaper and the shifted furniture groupings. They point with pride to her tastefully selected upholsteries, drapes, slipcovers. They are fond of her, they say, because she is a lady.

The children call her Mummy and burst impetuously upon her in her sitting room when they come home from school. She supervises their work both in school and music.

The love of music which the Dewey boys both display comes to them naturally. Like their father, their mother was originally headed for a career in music.

Frances Eileen Hutt, who was to become Mrs. Thomas E. Dewey, was born on February 7, 1903, in Sherman, Texas. Her father Orla Thomas Hutt came from Ottumwa, Iowa, as a boy, to Sherman, where he became a railroad trainman. Her mother, Lee Davis Hutt, who is a descendant of the

Jefferson Davis family, grew up in Sherman, Texas. She, like her daughter, was a fine pianist.

Young Frances Hutt was educated in the public schools of Sherman, Texas, and Sapulpa, Oklahoma, to which community the family moved when she was eleven. It was there that she first began to study piano, and upon her graduation from high school received a medal for singing, which carried with it a scholarship to the University of Oklahoma. Actually she did not avail herself of that scholarship, but instead, upon the prompting of her music teacher, went to New York to study with the well-known singing teacher, Percy Rector Stephens. To help meet the cost of her studies, Miss Hutt became assistant secretary and then secretary to Mr. Stephens. During the three years that she studied with him, Miss Hutt went each summer to Chicago, where Mr. Stephens conducted a summer course at the Chicago Musical College. It was there, in 1923, that she met Thomas E. Dewey, then a recent graduate of the University of Michigan and winner of a musical scholarship, who was spending the summer months as a law clerk in the offices of his cousin, Leonard C. Reid.

In the natural development of her career as a singer, the future Mrs. Dewey found her first professional opportunities as a church soloist. For a time, while still a student, she was regularly engaged as soloist in the Methodist Church in Plainfield, New Jersey. But the time soon came when she and her teacher agreed that wider experiences before larger audiences were needed. She began as understudy to the principal soloist in a musical review and spent several months with it touring the country. This was followed by two twenty-week tours as a principal singer in the Paramount Theatres all over the country, beginning with an appearance on the great stage of the newly opened Paramount Theatre in New York.

By this time her career as a professional soloist and concert singer was well on its way, but by this time also, Thomas Dewey was well started on his career as a lawyer. Frances Hutt, like her mother before her, gave up her career in music for a career of married life.



Mrs. Dewey is slim and decidedly pretty. Her hair is brown, now powdered with a tinge of gray. In manner she is quiet and reserved, but she has a keen sense of humor which has an effect upon pretense and sham like that of a pin point on a toy balloon.

Mrs. Dewey has never made a public speech in her life and probably never will. She takes a keen interest in her husband's career and in public affairs generally. But the role she has marked out for herself is to devote herself to bringing up her two sturdy sons and making a happy and comfortable home for her husband. Mrs. Dewey's part, by her own choice, is to strengthen her husband's career in public life, not to rival it. Their home life with their two boys is ideal.

Their farm at Pawling was bought on a small down payment, and is not yet paid for; but it has been developed into a real farm that more than pays its own expenses. Dewey is a gentleman and a farmer; not a gentleman farmer.

Few men, if any, in the United States have a wider or deeper acquaintance with all the phases of life and government than Dewey. He has managed magnificently the administration of the largest state in the union in population and wealth. He took over its government in the midst of a war without disturbing anything or anyone except the inefficient, the corrupt, and the unnecessary who had attached themselves to the ship of the State like barnacles. He vastly increased the efficiency, the economy and the honesty.

He can take over the Government of the United States with the same disturbance of the same barnacles only, and with a similar increase in honesty, economy and efficiency.

He has never been even accused of a political or other dishonesty. He has devoted his life to being worthy of the Republic, whose laws he reveres and has always defended, and for whose citizens he has always been the devoted Attorney.







